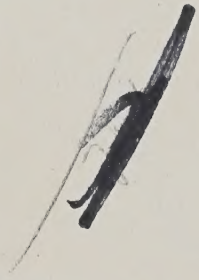

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EDITOR

TEN VOLUMES

VOL. III

THE ROMAN WORLD

BOSTON CHICAGO

THE ROBERTS-MANCHESTER PUBLISHING CO.
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EDITOR'S ACKNOWLEDGMENT

ALTHOUGH THE EDITOR only is responsible for the matter included in this set of books, yet he has been greatly assisted by the suggestions he has received from specialists in their own fields. As the editing of the last volumes is not yet finished, it is impossible to give full credit for such advice, but the editor takes this opportunity to acknowledge the important counsel or additional suggestions received from:

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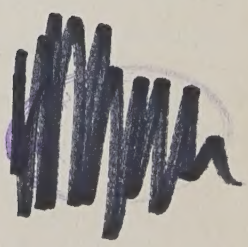

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INSTITUTIONS

THE DEVELOPMENT OF THE ROMAN LAW AND CONSTITUTION

Rome produced a system of laws the equal of which the world had never seen. It was her great work to build up a vast empire by conquest and to lift up the conquered peoples to her level by imparting to them her laws and civilization. Her body of law was her greatest legacy of the world. The first thirty-one subjects treated by the following fragments are intended to give some idea of her legal and constitutional development. The next selection, the Institutes of Justinian, still used as a text book in law schools, properly finds a place here as the final statement and discussion of Roman law.

I. APPIAN'S REVIEW OF THE ROMAN CONTENTIONS

The Roman plebs and senate had many contentions with each other about the passing of laws, the abrogation of debts, the allotment of lands, or the elections of magistrates. But these civil contests did not bring them into actual warfare. They were only disagreements and struggles within the law, which they settled by reciprocal compromises with great regard for each other. They got into such a contest at one time when the plebs were setting out for war, but they did not make use of the arms in their hands, but withdrew to the hill that henceforth was called the Sacred Mount. Even at this time no harm was done, but

they established a magistrate for their protection and called him the tribune of the plebs, to act as an offset to the consuls, who were appointed by the senate, in order that the political power should not rest entirely with the senate. From this sprung even greater animosity, and the magistrates became more and more bitterly opposed to each other, while the senate and plebs arrayed themselves with them, each thinking to succeed against the other by increasing the power of its own magistrates. Amongst such struggles, Marcius Coriolanus, after being unjustly banished, found shelter with the Volsci and brought war upon his own country.

This, however, is the only instance of resort to violence that can be found in these ancient contentions and this was inaugurated by an exile. The sword was never brought into the assembly and there were no political murders until Tiberius Gracchus fell, the first victim to civil sedition, while acting as tribune and introducing new laws; many others, also, that were gathered with him at the Capitol, were killed about the temple. The struggle did not end with this infamous deed. The two sides again and again came into open strife, often with daggers, and at times some one acting as tribune, or praetor, or consul, or some one standing for such offices, or otherwise eminent, would be killed in a temple, or assembly, or the forum. An almost constant reign of disgraceful disorder followed along with a scandalous disregard for law and justice. As the commotion developed, open rebellion against the government and important armed invasions against the state itself were entered into by exiles, or criminals, or by contestants for some office or military command. Factional leaders, looking to supreme power, seized various districts, some of them refusing to disband the forces given to them by the people, others mustering troops against one another on their own account and without public sanction. If one of them got possession of the city, the others would bring war, nominally against him, but really against their common city. They would attack it like a foreign foe. Merciless massacres of the citizens were committed. Some men were proscribed, others exiled, property was confiscated, and some even fiendishly tortured.

Nothing disgraceful was refrained from until about fifty years after the death of Gracchus, Cornelius Sulla, one of the factional chiefs, curing one malady with another, made himself ruler of the city for an indefinite time. Such magistrates had been previously called dictators, and the office, established in the greatest crises for six months only, had long since fallen into abeyance. Sulla became dictator for

life, though perfunctorily elected, really through force and coercion. In spite of this he became gorged with the absolute power, and, so far as I know, was the first man that, holding supreme command, had the courage to lay it down of his own accord and declare himself willing to account for his stewardship to any not satisfied with it. And thus for quite a time, he used to walk to the forum in the sight of all as a private citizen and return home without being molested, so great awe of his rule still remained in the memories of the onlookers, or so great was their amazement at his laying it aside. They may have been ashamed to ask him for an accounting, or perhaps believed that his dictatorship had been a good thing for the state, or were well-disposed toward him in some other way. At all events, there was a pause in the factional struggles for a brief time during Sulla's life and some recompense for the mischief he had wrought. After his death the civil struggles sprung forth anew and lasted until Gaius Caesar, who had had the government of Gaul for years, by appointment, was ordered to relinquish his command. He claimed this was not the desire of the senate, but of his opponent, Pompey, who commanded the army in Italy, and was intriguing to depose him. So he sent overtures either that they should keep their forces so that neither would have to fear the hostility of the other, or that Pompey also should disband his troops and live as a private citizen before the law, the same as himself. When both alternatives were refused, he marched from Gaul against Pompey, who was in Roman territory, entered it, sent him flying, and pursued him to Egypt. When Pompey had been killed by the Egyptians, Caesar turned to the conditions in Egypt and tarried there until he had arranged for the succession to the throne. After this he came back to Rome. As he had conquered in war his chief opponent who had been surnamed the Great, because of his illustrious military achievements, Caesar now ruled openly, no one daring to oppose him in any way, and was elected dictator for life, the first since Sulla. Once more civil strife stopped, until Brutus and Cassius, envying his absolute supremacy, and wishing to bring back the institutions of their fathers, assassinated this most popular of men, and the best versed in the art of government, in the senate. The populace deeply mourned him. They hunted the city for his slayers. They buried him in the center of the forum and over his funeral pile built a temple, sacrificing to him as a god.

Civil war now broke forth again, more serious than ever before, and grew to enormous proportions. Massacres, banishments, and

proscriptions, both of the senators and so-called knights, embracing large numbers of both classes, followed, the factional chiefs (when uniting) giving up the enemies of each to him, and, to this end, sparing not even their friends and brothers; so much is the hatred of foes stronger than the love of kindred. Thus, in the progress of affairs, the Roman empire was divided, as if private property, among three men, Antony, Lepidus, and he that was first called Octavius, but afterwards Caesar, from his relationship to the other Caesar and his adoption in the will. Soon after this partition they began to quarrel among themselves, as was to be expected, and Octavius, who was superior in intellect and ability, despoiled Lepidus of Africa, which had fallen to him, and then, as the result of the fight at Actium, seized from Antony all of the provinces lying between Syria and the Adriatic gulf. Upon this, while the whole world was amazed at these marvelous manifestations of power, he sailed to Egypt and took possession of that country, the most ancient and at that time the strongest possession of the successors of Alexander, and the only one needed to round out the Roman Empire as it now stands. Because of these feats he was at once raised to the dignity of a god, even though still living, and was the first to be thus designated by the Romans, being called by them Augustus. He took upon himself a jurisdiction over the country and subject peoples like Caesar's, and even more absolute than Caesar's; not needing any form of election or sanction, or even the show of it. His rule being made stronger through time and custom, and, as he himself succeeded in everything and was honored by all, he left a lineage and dynasty that held the kingly power in the same way after him. Thus, out of multudinous civil dissensions, the Roman state passed into permanency and a monarchy.—Appian Civil Wars, Int.

II. THE ORIGIN OF ROMAN LAW

It seems to us necessary to set forth the origin and development of the law itself. Now in the beginning of our city the people were living without fixed principle or definite law, and all things were governed by the kings out of hand. Later, when the city had grown to some extent, it is related that Romulus himself divided the people into thirty divisions, which he called curiæ, because he managed the government (*curam*) of the state by means of the counsels of these divisions; and thus he himself gave to the people certain laws that were accepted by the curiæ. The later kings also gave laws which are all found written in the book of Sextus Papirius. This book is called the Papirian Civil Law, not because Papirius of himself added anything thereto, but because he brought together and arranged the laws previously passed without system. Then when the kings were driven out by the law of the tribunes, all these laws fell into disuse, and the Roman people again began to live under uncertain rule and general custom rather than by statute law, which state of affairs lasted nearly twenty years. Later, in order that this should not keep up longer, it was deemed best by all that ten men should be appointed by whom laws should be sought from the Greek cities and the city be founded on law.—Justinian's Digest, 533 A .D., I. 2.

III. FRAGMENT OF THE LAWS OF THE TWELVE TABLES

451—449 B. C.

I. 1. If anyone summons a man before the magistrate, he must go. If the man summoned does not go, let the one summoning him call the bystanders to witness and then take him by force. If he shirks or runs away, let the summoner lay hands on him. If illness or old age is the hindrance, let the summoner provide a team. He need not provide a covered carriage with a pallet unless he chooses.

2. Let the protector of a landholder be a landholder; for one of the proletariat, let anyone that cares to be protector.

3. When the litigants settle their case by compromise, let the magistrate announce it. If they do not compromise, let them state each his own side of the case, in the comitium (public meeting) of the forum,

before noon. Afterwards let them talk it out together, while both are present. After noon, in case either party has failed to appear, let the magistrate pronounce judgment in favor of the one who is present. If both are present the trial may last until sunset but no later.

II. 2. He whose witness has failed to appear may summon him by loud calls before his house every third (perhaps second) day.

III. 1. One who has confessed a debt, or against whom judgment has been pronounced, shall have thirty days to pay it in. After that forcible seizure of his person is allowed. The creditor shall bring him before the magistrate. Unless he pays the amount of the judgment or some one in the presence of the magistrate interferes in his behalf as protector the creditor so shall take him home and fasten him in stocks or fetters. He shall fasten him with not less than fifteen pounds of weight or, if he choose, with more. If the prisoner choose, he may furnish his own food. If he does not, the creditor must give him a pound of meal daily; if he choose he may give him more.

2. On the third market day let them divide his body among them. If they cut more or less than each one's share it shall be no crime.

3. Against a foreigner the right in property shall be valid forever.

IV. 1. If a father sell his son three times, the son shall be free from his father.

2. As a man has provided in his will in regard to his money and the care of his property, so let be binding. If he has no heir and dies intestate, let the nearest agnate have the inheritance. If there is no agnate, let the members of his gens have the inheritance.

3. If one is mad but has no guardian, the power over him and his money shall belong to his agnates and the members of his gens.

VI. 1. When one makes a bond and a conveyance of property, as he has made formal declaration so let it be binding.

3. A beam that it built into a house or a vineyard trellis one may not take from its place.

VII. 1. Let them keep the road in order. If they have not paved it, a man may drive his team where he likes.

VIII. 2. If one has maimed a limb and does not compromise with the injured person, let there be retaliation. If one has broken a bone of a freeman with his hand or with a cudgel, let him pay a penalty of three hundred coins. If he has broken the bone of a slave, let him pay one hundred and fifty coins. If one is guilty of insult, the penalty shall be twenty-five coins.

3. If one is slain while committing theft by night, he is rightly slain.

4. If a patron shall have devised any deceit against his client, let him be accursed.

5. If one shall permit himself to be summoned as a witness, or has been a weigher, if he does not give his testimony, let him be noted as dishonest and incapable of acting again as witness.

X. 1. None is to bury or burn a corpse in the city.

3. The women shall not tear their faces nor wail on account of the funeral.

5. If one obtains a crown himself, or if his chattel does so because of his honor and valor, if it is placed on his head, or the head of his parents, it shall be no crime. TRANSLATED BY NINA E. WESTON.

Cicero on the Twelve Tables

"Though all the world exclaim against me, I will say what I think: that single little book of the Twelve Tables, if any one look to the fountains and sources of laws, seems to me, assuredly, to surpass the libraries of all the philosophers, both in weight of authority, and in plenitude of utility. And if our country has our love, as it ought to have in the highest degree—our country, I say of which the force and natural attraction is so strong, I say, that one of the wisest of mankind preferred his Ithaca, fixed, like a little nest, among the roughest of rocks, to immortality itself—with what affection ought we to be warmed towards such a country as ours, which, pre-eminently above all other countries, is the seat of virtue, empire, and dignity? Its spirit, customs, and discipline ought to be our first objects of study, both because our country is the parent of us all, and because as much wisdom be thought to hav been employed in framing such laws, as in establishing so vast and powerful an empire. You will receive also this pleasure and delight from the study of the law, that you will then most readily comprehend how far our ancestors excelled other nations in wisdom, if you compare our laws with those of their Lycurgus, Draco, and Solon. It is indeed incredible how undigested and almost ridiculous is all civil law, except our own; on which I am accustomed to say much in my daily conversation when I am praising the wisdom of our countrymen above that of all other men, and especially of the Greeks. For these reasons have I declared, Scævola, that the knowledge of the civil law is indispensable to those who would become accomplished orators.—Cicero, De Oratore, I. 44.

IV. THE RIGHT OF APPEAL AND THE ACQUISITION BY THE PLEBS OF LEGISLATIVE AUTHORITY

THE VALERIAN LAW, 509 B. C. THE VALERIAN AND HORATIAN LAWS, 449 B .C. THE PORCIAN LAW (3RD CENTURY B. C.)

The Valerian Law

509 B. C.

XXXI. ....Therefore, when that admirable constitution of Romulus had lasted steadily about two hundred and forty years (text missing). The whole of that law was abolished. In this humor, our ancestors banished Collatinus, in spite of his innocence, because of the suspicion that attached to his family, and all the rest of the Tarquins, on account of the unpopularity of their name. In the same humor, Valerius Publicola was the first to lower the fasces before the people, when he spoke in the assembly of the people. He also had the materials of his house conveyed to the foot of Mount Velia, having observed that the commencement of his edifice on the summit of this hill, where King Tullius had once dwelt, excited the suspicions of the people.

It was the same man, who in this respect pre-eminently deserved the name of Publicola, who carried in favor of the people the first law received in the Comitia Centuriata, that no magistrate should sentence to death or scourging a Roman citizen who appealed from his authority to the people. And the pontifical books attest that the right of appeal had existed, even against the decision of the kings. Our augural books affirm the same thing. And the Twleve Tables prove, by a multitude of laws, that there was a right of appeal from every judgment and penalty. Besides, the historical fact that the decemviri who compiled the laws were created with the privilege of judging without appeal, sufficiently proves that the other magistrates had not the same power. And a consular law, passed by Lucius Valerius Politus and Marcus Horatius Barbatus, men justly popular for promoting union and concord, enacted that no magistrate should thenceforth be appointed with authority to judge without appeal; and the Portian laws, the work of three citizens of the name of Portius, as you are aware, added nothing new to this edict but a penal sanction.

Therefore Publicola, having promulgated this law in favor of appeal to the people, immediately ordered the axes to be removed from the fasces, which the lictors carried before the consuls, and the next

day appointed Spurius Lucretius for his colleague. And as the new consul was the oldest of the two, Publicola ordered his lictors to pass over to him; and he was the first to establish the rule, that each of the consuls should be preceded by the lictors in alternate months, that there should be no greater appearance of imperial insignia among the free people than they had witnessed in the days of their kings. Thus, in my opinion, he proved himself no ordinary man, as, by so granting the people a moderate degree of liberty, he more easily maintained the authority of the nobles.

Nor is it without reason that I have related to you these ancient and almost obsolete events; but I wished to adduce my instances of men and circumstances from illustrious persons and times, as it is to such events that the rest of my discourse will be directed.

XXXII. At that period, then, the senate preserved the commonwealth in such a condition, that though the people were really free, yet few acts were passed by the people, but almost all, on the contrary, by the authority, customs, and traditions of the senate. And over all the consuls exercised a power—in time, indeed, only annual, but in nature and prerogative completely royal.

The consuls maintained, with the greatest energy, that rule which so much conduces to the power of our nobles and great men, that the acts of the commons of the people shall not be binding, unless the authority of the patricians has approved them. About the same period, and scarcely ten years after the first consuls, we find the appointment of the dictator in the person of Titus Lartius. And this new kind of power, namely, the dictatorship, appears exceedingly similar to the monarchical royalty. All his power, however, was vested in the supreme authority of the senate, to which the people deferred; and in these times great exploits were performed in war by brave men invested with the supreme command, whether dictators or consuls.

XXXIII. But as the nature of things necessarily brought it to pass that the people, once freed from its kings, should arrogate to itself more and more authority, we observe that after a short interval of only sixteen years in the consularship of Postumus Cominus and Spurius Cassius, they attained their object; an event explicable, perhaps, on no distinct principle, but nevertheless, in a manner, independent of any distinct principle. For, recollect what I said, in commencing our discourse, that if there exists not in the state a just distribution and subordination of rights, offices, and prerogatives, so as to give sufficient domination to the chiefs, sufficient authority to the

counsel of the senators, and sufficient liberty to the people, this form of the government cannot be durable.

For when the excessive debts of the citizens had thrown the state into disorder, the people first retired to Mount Sacer, and next occupied Mount Aventine. And even the rigid discipline of Lycurgus could not maintain those restraints in the case of the Greeks. For in Sparta itself, under the reign of Theopompus, the five magistrates whom they term Ephori, and in Crete, ten whom they entitle Cosmi, were established in opposition to the royal power, just as tribunes were added among us to counterbalance the consular authority.

XXXIV. There might have been a method, indeed, by which our ancestors could have been relieved from the pressure of debt, a method with which Solon the Athenian, who lived at no very distant period before, was acquainted, and which our senate did not neglect when, in the indignation which the odious avarice of one individual excited, all the bonds of the citizens were cancelled, and the right of arrest for a while suspended. In the same way, when the plebeians were oppressed by the weight of the expenses occasioned by public misfortunes, a cure and remedy were sought for the sake of public security. The senate, however, having forgot their former decision, gave an advantage to the democracy; for, by the creation of two tribunes to appease the sedition of the people, the power and authority of the senate were diminished; which, however, still remained dignified and august, inasmuch as it was still composed of the wisest and bravest men, who protected their country both with their arms and with their counsels; whose authority was exceedingly strong and flourishing, because in honor they were as much before their fellow-citizens, as they were inferior in luxuriousness, and, as a general rule, not superior to them in wealth. And their public virtues were the more agreeable to the people, because even in private matters they were ready to serve every citizen, by their exertions, their counsels, and their liberality.

XXXV. Such was the situation of the commonwealth, when the quæstor impeached Spurius Cassius of being so much emboldened by the excessive favor of the people, as to endeavor to make himself master of monarchical power. And, as you have heard, his own father, having said that he had found that his son was really guilty of this crime, condemned him to death at the instance of the people. About fifty-four years after the first consulate, Spurius Tarpeius and Aulus Aternius very much gratified the people by proposing, in the Comitia Centuriata, the substitution of fines instead of corporal punishments.

Twenty years afterwards, Lucius Popirius and Publius Pinarius, the censors, having by a strict levy of fines confiscated to the state the entire flocks and herds of many private indivdiuals, a light tax on the cattle was substituted for the law of fines in the consulship of Caius Julius and Publius Papirius.

XXXVI. But, some years previous to this, at a period when the senate possessed the supreme influence, and the people were submissive and obedient, a new system was adopted. At that time both the consuls and tribunes of the people abdicated their magistracies, and the decemviri were appointed, who were invested with great authority, from which there was no appeal whatever, so as to exercise the chief domination, and to compile the laws. After having composed, with much wisdom and equity, the Ten Tables of laws, they nominated as their successors in the ensuing year other decemviri, whose good faith and justice do not deserve equal praise. One member of this college, however, merits our highest commendation. I allude to Caius Julius, who declared respecting the nobleman, Lucius Sestius, in whose chamber a dead body had been exhumed under his own eyes, that though as decemvir he held the highest power without appeal, he still required bail, because he was unwilling to neglect that admirable law which permitted no court but the Comitia Centuriata to pronounce final sentence on the life of a Roman citizen.

XXXVII. A third year followed under the authority of the same decemvirs, and still they were not disposed to appoint their successors. In a situation of the commonwealth like this, which, as I have often repeated, could not be durable, because it had not an equal operation with respect to all the ranks of the citizens, the whole public power was lodged in the hands of the chiefs and decemvirs of the highest nobility, without the counterbalancing authority of the tribunes of the people, without the sanction of any other magistracies, and without appeal to the people in the case of a sentence of death or scourging.

Thus, out of the injustice of these men, there was suddenly produced a great revolution, which changed the entire condition of the government; for they added two tables of very tyrannical laws, and though matrimonial alliances had always been permitted, even with foreigners, they forbade by the most abominable and inhuman edict, that any marriages should take place between the nobles and the commons—an order which was afterwards abrogated by the decree of Canuleius. Besides, they introduced into all their political measures corruption, cruelty, and avarice. And indeed the story is well known,

and celebrated in many literary compositions, that a certain Decimus Virginius was obliged, on account of the libidinous violence of one of these decemvirs, to stab his virgin daughter in the midst of the forum. —Cicero, De Re Publico, Bk. II.

Valerian and Horatian Laws

449 B. C.

The consuls, L. Valerius Politus and M. Horatius Barkatus decreed certain laws in the assemblies of the centuries (the patricians indeed were much incensed at this, but for very shame dared not oppose them), some of which there is no need for me to write, but among them was one, "which commanded, that the laws which had been passed by the people assembled in tribes should be binding equally on all Romans, and should have the same force as those passed in the assemblies of the centuries: if anyone annulled such a law, or transgressed it, on being convicted of the crime, he should be punished with death, and his goods should be confiscated."—Dionysius Halicarnassus (died 7 B. C., about 60 years of age), XI. 45.

Then through an interrex Lucius Valerius and Marcus Horatius were elected consuls, who immediately entered on their office; whose consulship was popular without any actual injury to the patricians, though not without their displeasure; for whatever provision was made for securing the liberty of the commons, that they considered to be a diminution made in their own power. First of all, when it was as it were a point in controversy, whether patricians were bound by regulations enacted in an assembly of the commons, they proposed a law in the assembly of the centuries, that whatever the commons ordered collectively, should bind the entire people; by which law a most keen-edged weapon was given to motions introduced by tribunes. Then another law made by a consul concerning the right of appeal, a singular security to liberty, and subverted by the decemviral power, they not only restore, but guard it also for the time to come, by enacting a new law, "that no one should appoint any magistrate without a right of appeal; if any person should so elect, it would be lawful and right that he be put to death; and that such killing should not be deemed a capital offence." And when they had sufficiently secured the commons by the right of appeal on the one hand, by tribunitian aid on the other, they renewed for the tribunes themselves (the privilege) that they should be held sacred and inviolable, the memory of which matter had

now been almost lost, reviving certain ceremonies which had been long disused; and they rendered them inviolable both by the religious institution, as well as by a law, enacting, that "whoever should offer injury to tribunes of the people, ædiles, judges, decemvirs, his person should be devoted to Jupiter, and his property be sold at the temple of Ceres, Liber and Liberia." Commentators deny that any person is by this law sacrosanct; but that he who may do an injury to any of them, is deemed to be devoted; therefore that an ædile may be arrested and carried to prison by superior magistrates, which, though it be not expressly warranted by law, for an injury is done to a person to whom it is not lawful to do an injury considered as sacred; that the tribunes were sacred and inviolable by an ancient oath of the commons, when first they created that office. There have been persons who supposed that by this same Horatian law provision was made for the consuls also and the prætors, because they were elected under the same auspices as the consuls; for that a consul was called a judge. Which interpretation is refuted, because at this time it was not yet the custom for the consul to be styled judge, but the prætor. These were the laws proposed by the consuls. It was also regulated by the same consuls, that decrees of the senate should be deposited with the ædiles of the commons in the temple of Ceres; which before that used to be suppressed and altered at the pleasure of the consuls. Marcus Duilius then, tribune of the commons, proposed to the people, and the people ordered, that "whoever left the people without tribunes, and whoever caused a magistrate to be elected without the right of appeal, should be punished with stripes and beheaded." All these matters, though against the feelings of the patricians, passed off without opposition from them, because no severity was aimed at any particular individual. —Livy, III. 55.

(The Porcian Law is mentioned in Cicero, De Oratore, XXI., given under the Valerian Law, and in Livy, X. 9, under selection XI. below.)

V. THE CANULEIAN LAW

445 B. C.

Marcus Genucius and Caius Curtius followed these as consuls. The year was disturbed both at home and abroad. For at the commencement of the year Caius Canuleius, tribune of the people, proposed

a law concerning the intermarriage of the patricians and commons; by which the patricians considered that their blood would be contaminated, and the privileges of birth would be confounded; and a hint at first lightly suggested by the tribunes, that it should be lawful that one of the consuls should be elected from the commons, afterwards proceeded so far, that the nine tribunes proposed a bill, "that the people should have the power of electing the consuls, whether they wished, from the commons or the patricians. But they thought that if that were done, the supreme authority would not only be shared with the lowest ranks, but be wholly transferred from the nobility to the commons. With joy therefore the patricians heard that the people of Ardea had revolted in consequence of the injustice of the taking away their land, and that the Veientians had laid waste the frontiers of the Roman territory, and that the Volscians and Æquans murmured on account of the fortifying of Verrugo; so much did they prefer an unsuccessful war to an ignominious peace. These tidings therefore being received and with exaggerations, in order that during the din of so many wars the tribunitian proceedings might be suspended, they order the levies to be held, preparations to be made for war and arms with the utmost activity; with more energy, if possible, than had been used in the consulship of Titus Quintius. Then Caius Canuleius declared aloud in brief terms in the senate, that "the consuls wished in vain to divert the commons from attention to the new laws; that they never should hold a levee while he lived, before the commons had first ratified the laws proposed by him and his colleagues;" and he instantly summoned them to an assembly.

Both the consuls incited the senate against the tribune, and the tribune the people against the consuls at one and the same time. The consuls denied "that tribunitian frenzies could any longer be endured; that they were now come to a crisis; that more hostilities were being stirred up at home than abroad. That this happened not more through the fault of the commons than of the patricians; nor more through that of the tribunes than of the consuls. That the matter for which there was a reward in the state thrived always with the greatest proficiency; that thus it was that men became meritorious in peace, thus in war. That at Rome the highest reward was for sedition; that had ever been the source of honor both to individuals and to collective bodies. They should remember in what condition they had received the majesty of the senate from their forefathers, in what condition they were about to transmit it to their children; that, like the commons, they should have

it in their power to boast that it was improved in degree and in splendor. That there was no end, nor would there be, so long as the promoters of sedition were rewarded with honor in proportion as sedition was successful. What and how important schemes Caius Canuleius had set on foot! that he was introducing confounding of family rank, a disturbance of the auspices both public and private, that nothing may remain pure, nothing uncontaminated; that, all distinction being abolished, no one might know either himself or those he belonged to. For what other tendency had those promiscuous intermarriages, except that intercourse between commons and patricians might be made common after the manner of wild beasts; so that of the offspring each may be ignorant of what blood he may be, of what form of religion he was; that he may belong half to the patricians, half to the commons, not being homogeneous even with himself? That it appeared not enough, that all things divine and human should be confounded; that those disturbers of the common people were now preparing to (seize) the consulship; and first that they sounded people's sentiments in mere conversation on the project of having one consul appointed from the commons; that now the proposition was brought forward, that the people may appoint the consuls, whether they pleased from the patricians or from the people; and that they would appoint no doubt every most turbulent person. The Canuleii, therefore, and the Icilii would be consuls. (They expressed a hope) that Jupiter, the best and greatest, would not suffer the imperial majesty of the sovereign power to descend to that; and that they would certainly die a thousand deaths rather than such a disgrace should be incurred. They were certain that their ancestors, could they have divined that the commons would become not more placable to them, but more intractable, by making successive demands still more unreasonable, after they had obtained the first, would have rather submitted to any struggle, than have suffered such laws to be saddled on them. Because it was then conceded to them with respect to tribunes, the concession was made a second time. There was no end of it; tribunes of the commons and patricians could not subsist in the same state; either the one order or the other office must be abolished; and that a stop should be put to presumption and temerity rather late than never. (Was it right) that they, by sowing discord, should with impunity stir up the neighboring states against us? and then prevent the state from arming and defending itself against those evils which they may have brought on us? and after they have almost sent for the enemy, not suffer the armies to be levied

against the enemies? But Canuleius may have the audacity to declare openly in the senate that, unless the patrician suffer the law proposed by himself as victorious, to be enacted, he would prevent the levy from being held. What else was this, but threatening that he would betray his country; that he would suffer it to be attacked and captured? What charge would that expression afford, not to the Roman commons, but to the Volscians, Æquans, and the Veientians! would they not hope that, under the generalship of Canuleius, they should be able to scale the Capitol and citadel, if with the deprivation of privilege and majesty, the tribunes should rob the patricians of their courage also? That the consuls were prepared to act against the wicked schemes of their countrymen, before they would act against the arms of the enemy."

Just when these matters were going on in the senate, Canuleius thus declaimed in favor of his laws and against the consuls: "Frequently even before now I think I have observed how much the patricians despised you, Romans, how unworthy they deemed you to dwell in the one city and within the same walls with them; but on the present occasion most clearly, in their having risen up so determinedly in opposition to those propositions of ours: in which what else do we do, but remind them that we are their fellow citizens, and that though we possess not the same power, we inhabit the same city? In the one we demand intermarriage, a thing which is usually granted to neighbors and foreigners: we have granted even to vanquished enemies the right of citizenship, which is more than the right of intermarriage. In the other we propose nothing new; we only reclaim and demand that which is the people's; that the Roman people may confer honors on whomsoever they may please. And what in the name of goodness is it for which they embroil heaven and earth? why was almost an attack made on me just now in the senate? why do they say they will not restrain themselves from violence, and threaten that they will insult an office, sacred and inviolable? Shall this city no longer be able to stand, and is the empire at stake, if the right of free suffrage is granted to the Roman people, to confer the consulship on whomsoever they may please, and if a plebeian, though he may be worthy of the highest honor, is not precluded from the hope of attaining that honor? and is this of the same import, whether a plebeian be made a consul, as if any one were to propose a slave or the son of a slave to be consul? Do you perceive in what contempt you live? they would take from you a participation in this light, if it were permitted them. That you breathe, that you enjoy the faculty of speech, that you possess the forms of

human beings excites their indignation. Nay, even, as I hope for mercy, they say it is contrary to religion that a plebeian should be made consul. I pray, though we are not admitted to the annals, nor to the commentaries of the pontiffs, do we not know even those things which strangers know? that consuls have succeeded kings? and that they possess no privilege, no majesty which was not formerly inherent in kings? Do you suppose that we ever heard it mentioned that Numa Pompilius, who not only was not a patrician, but not even a citizen of Rome, was sent for from the country of the Sabines by order of the people, with the approbation of the senate, and that he was made king at Rome? that afterwards Lucius Tarquinius, who was not only not of Roman, but not even of Italian extraction, the son of Damaratus of Corinth, an emigrant from Tarquinii, was made king, even whilst the sons of Ancus still lived? that after him Servius Tullius, the son of a captive woman of Corniculum, with his father unknown, his mother a slave, attained the throne by his ability and merit? For what shall I say of Titus Tatius the Sabine, whom Romulus himself, the founder of our city, admitted into partnership of the throne? Accordingly, whilst no class of persons is disdained, in whom conspicuous merit may be found, the Roman dominion increased. You do well to be dissatisfied now with a plebeian consul, when your ancestors disdained not foreigners as kings, and when, even after the expulsion of kings, the city was not shut against foreign merit. After the expulsion of the kings, we certainly admitted the Claudian family from the Sabine country not only into citizenship, but even into the number of the patricians. Can a man from a foreigner be made a patrician, then a consul? shall a Roman citizen, if he belong to the commons, be precluded from all hope of the consulate? Do we then deem it impossible that a man of the commons can be a person of fortitude and activity, qualified to excel both in peace and war, like to Numa, Lucius Tarquinius, and Servius Tullius? Or, shall such appear, shall we not suffer him to meddle with the helm of government? or shall we have consuls like the decemvirs, the most abandoned of mortals, who were, however, all patricians, rather than like the best of kings, though new men?

"But (I may be told) no commoner has been consul since the expulsion of the kings. What then? ought no innovation to be introduced? and what has not yet been practised, (and in a new state there are many things not yet practised,) ought not even such measures, even though they be useful, be adopted? During the reign of Romulus

there were no pontiffs, nor augurs: they were appointed by Numa Pompilius. There was no census in the state nor the distribution of centuries and classes; it was introduced by Servius Tullius: there never had been consuls; they were created after the expulsion of the kings. Of a dictator neither the office nor the name had existed; it commenced its existence among the senators. There were no tribunes of the people, ædiles, nor quæstors: it was resolved that those officers should be appointed. Within the last ten years we both created decemvirs for compiling laws, and we abolished them. Who can doubt but that in a city doomed for eternal duration, increasing to an immense magnitude, new civil offices, priesthoods, rights of families and of individuals, may be established? This very matter, that there should not be the right of intermarriage between patricians and commons, did not the decemvirs introduce within the last few years to the utmost injury of the commons, on a principle most detrimental to the public? Can there be a greater or more marked insult, than that one portion of the state, as if contaminated, should be deemed unworthy of intermarriage? What else is it than to suffer exile within the same walls, actual rustication? They wish to prevent our being mixed with them by affinity or consanguinity; that our blood be not mingled with theirs. What? if this cast a stain on that nobility of yours, which most of you, the progeny of Albans or Sabines, possess, not in right of birth or blood, but by co-optation into the patricians, having been elected either by the kings, or after the expulsion of kings, by order of the people, could ye not keep it pure by private regulations, by neither marrying into the commons, and by not suffering your daughters or sisters to marry out of the patricians. No one of the commons would offer violence to a patrician maiden; such lust as that belongs to the patricians. None of them would oblige any man against his will to enter into a marriage contract. But really that such a thing should be prevented by law, that the intermarriage of the patricians and plebeians should be interdicted, that it is which is insulting to the commons. Why do you not combine in enacting a law that there shall be no intermarriage between rich and poor? That which has in all places and always been the business of private regulations, that a woman might marry into whatever family she has been engaged to, and that each man might take a wife out of whatever family he had contracted with, that ye shackle with the restraints of a most tyrannical law, by which ye sever the bonds of civil society and split one state into two. Why do ye not enact a law that a plebeian shall not dwell in the neighborhood of

a patrician? that he shall not go the same road with him? that he shall not enter the same banquet with him? that he shall not stand in the same forum? For what else is there in the matter, if a patrician man wed a plebeian woman, or a plebeian a patrician? What right, pray, is thereby changed? the children surely go with the father. Nor is there any thing which we seek from intermarriage with you, except that we may be held in the number of human beings and fellow citizens, nor is there any reason why ye contest the point, except that it delights you to strive for insult and ignominy to us.

"In a word, whether is the supreme power belonging to the Roman people, or is it yours? Whether by the expulsion of kings has dominion been acquired for you or equal liberty for all? It is fitting that the Roman people should be allowed to enact a law, if it please. Or will ye decree a levy by way of punishment, according as each bill shall be proposed? and as soon as I, as tribune, shall begin to call the tribes to give their votes, will you, forthwith, as consul, force the younger men to take the military oath, and lead them out to camp? and will you threaten the commons? will you threaten the tribune? What, if you had not already twice experienced how little those threats availed against the united sense of the people? Of course it was because you wished to consult for our interest, that you abstained from force. Or was there no contest for this reason, that the party which was the stronger was also the more moderate? Nor will there be any contest now, Romans: they will try your spirit; your strength they will not make trial of. Wherefore, consuls, the commons are prepared to accompany you to these wars, whether real or fictitious, if, by restoring the right of intermarriage, you at length make this one state; if they can coalesce, be united and mixed with you by private ties; if the hope, if the access to honors be granted to men of ability and energy; if it is lawful to be in a partnership and share of the government; if, what is the result of equal freedom, it be allowed in the distribution of the annual offices to obey and to govern in their turns. If any one shall obstruct these measures, talk about wars, multiply them by report; no one will give in his name, no one will take up arms, no one will fight for haughty masters, with whom there is no participation of honors in public, nor of intermarriage in private."

When both the consuls came forward into the assembly, and the matter had changed from a long series of harangues to altercation, the tribune, on asking why it was not right that a plebeian should be made a consul, an answer was returned, truly perhaps, though by no means

expediently for the present contest, "that no plebeian could have the auspices, and for this reason the decemvirs had prohibited the intermarriage, lest from uncertainty of descent the auspices might be vitiated." The commons were fired with indignation at this above all, because, as if hateful to the immortal gods, they were denied to be qualified to take auspices. And now (as the commons both had a most energetic supporter in the tribune, and they themselves vied with him in perseverance) there was no end of the contentions, until the patricians, being at length overpowered, agreed that the law regarding intermarriage should be passed, judging that by these means most probably the tribunes would either give up altogether or postpone until after the war the question concerning the plebeian consuls; and that in the mean time the commons, content with the intermarriage-law (being passed), would be ready to enlist. When Canuleius was now in high repute by his victory over the patricians and by the favor of the commons, the other tribunes being excited to contend for their bill, set to work with all their might, and, the accounts regarding the war augmenting daily, obstruct the levy. The consuls, when nothing could be transacted through the senate in consequence of the opposition of the tribunes, held meetings of the leading men at their own houses. It was becoming evident that they must concede the victory either to the enemies or to their countrymen. Valerius and Horatius alone of the consulars did not attend the meetings. The opinion of Caius Claudius was for arming the consuls against the tribunes. The sentiments of the Quintii, both Cincinnatus and Capitolinus, were averse to bloodshed, and to violating (persons) whom by the treaty concluded with the commons they had admitted to be sacred and inviolable. Through these meetings the matter was brought to this, that they suffered tribunes of the soldiers with consular authority to be elected from the patricians and commons without distinction; that with respect to the election of consuls no change should be made; and with this the tribunes were content, as were also the commons. An assembly is now proclaimed for electing three tribunes with consular power. This being proclaimed, forthwith whoever had contributed to promote sedition by word or deed, more particularly men who had been tribunes, began to solicit support and to bustle about the forum as candidates; so that despair, in the first instance, of obtaining the honor, by reason of the irritated state of the people's mind, then indignation at having to hold the office with such persons, deterred the patricians; at length, however, being forced, they stood as candidates, lest they might appear to

have relinquished all share in the government. The result of this election showed that the sentiments of persons in the struggle for liberty and dignity are different from those they feel when the contest is laid aside, the judgment being unbiased; for the people elected all patricians as tribunes, content with this, that the plebeians had been taken into account. Where could you now find in an individual such moderation, disinterestedness, and elevation of mind, as was then displayed by the entire people?

In the three hundred and tenth year after the city of Rome was built, for the first time military tribunes in the room of consuls enter into office, Aulus Sempronius Atratinus, Lucius Atilius, Titus Clælius; in whose office the concord prevailing at home afforded peace also abroad.—Livy, IV. 1-7.

VI. SUPPORT OF THE ARMY

Payment of Troops

about 406 B. C.

In the mean time it was determined that the military tribunes should lead an army into the Volscian territory. Cneius Cornelius alone was left at Rome. The three tribunes, when it became evident that the Volscians had not established a camp any where, and that they would not venture an engagement, separated into three different parties to lay waste the country. Valerius makes for Antium, Cornelius for Ecetræ. Wherever they came, they committed extensive devastations on the houses and lands, so as to separate the Volscians: Fabius, without committing any devastation, proceeded to attack Anxur, which was a principal object in view. Anxur is the town now called Tarracinæ; a city built on a declivity leading to a morass: Fabius made a feint of attacking it on that side. When four cohorts sent round under Caius Servilius Ahala took possession of a hill which commanded the city, they attacked the walls with a loud shout and tumult, from the higher ground where there was no guard of defense. Those who were defending the lower parts of the city against Fabius, astounded at this tumult, afforded him an opportunity of applying the scaling ladders, and every place soon became filled with the enemy and a dreadful slaughter continued for a long time, indiscriminately of those who fled and those who resisted, of the armed or unarmed. The vanquished were therefore obliged to fight, there being no hope for those who gave way, when a proclamation suddenly issued, that no persons except those

with arms in their hands should be injured, induced all the remaining multitude voluntarily to lay down their arms; of whom two thousand five hundred are taken alive. Fabius kept his soldiers from the spoil, until his colleagues should come; affirming that Anxur had been taken by these armies also, who had diverted the other Volscian troops from the defense of that place. When they came, the three armies plundered the town, which was enriched with wealth of many years' accumulation; and this generosity of the commanders first reconciled the commons to the patricians. It was afterwards added, by a liberality towards the people on the part of the leading men the most seasonable ever shown, that before any mention should be made of it by the commons or tribunes, the senate should decree that the soldiers should receive pay out of the public treasury, whereas up to that period every one had discharged that duty at his own expense.

It is recorded that nothing was ever received by the commons with so much joy; that they ran in crowds to the senate-house, and caught the hands of those coming out, and called them fathers indeed; acknowledging that the result of such conduct was that no one would spare his person or his blood, whilst he had any strength remaining, in defense of a country so liberal. Whilst the prospect of advantage pleased them, that their private property should remain unimpaired at the time during which their bodies should be devoted and employed for the interest of the commonwealth, it further increased their joy very much, and rendered their gratitude for the favor more complete, because it had been offered to them voluntarily, without ever having been agitated by the tribunes of the commons, or made the subject of a demand in their own conversations. The tribunes of the commons, the only parties who did not participate in the general joy and harmony prevailing through the different ranks, denied "that this measure would prove so much a matter of joy, or so honorable to the patricians, as they themselves might imagine. That the measure at first sight was better than it would prove by experience. For from what source was that money to be raised, except by levying a tax on the people. That they were generous to some therefore at the expense of others; and even though others may endure it, those who had already served out their time in the service, would never endure that others should serve on better terms than they themselves had served; and that these same individuals should have to bear the expense of their own service, and then that of others. By these arguments they influenced a part of the commons. At last, when the tax was now announced, the tribunes

publicly declared, that they would afford protection to any one who should refuse to contribute his proportion for the pay of the soldiers. The patricians persisted in supporting a matter so happily commenced. They themselves were the first to contribute; and because there was as yet no coined silver, some of them conveying their weighed brass to the treasury in wagons, rendered their contribution very showy. After the senate had contributed with the utmost punctuality according to their rated properties, the principal plebeians, friends of the nobility, according to a concerted plan, began to contribute. And when the populace saw these men highly applauded by the patricians, and also looked up to as good citizens by men of the military age, scorning the support of the tribunes, an emulation commenced at once about paying the tax. And the law being passed about declaring war against the Veientians, the new military tribunes with consular power marched to Veii an army consisting in a great measure of volunteers.—Livy, IV. 59-60.

Winter Campaigns

ABOUT 400 B. C.

Peace being established in every other quarter, the Romans and Veientians were still in arms with such rancour and animosity, that it was evident that ruin awaited the vanquished party. The elections in the two states were conducted in very different methods. The Romans augmented the number of military tribunes with consular power. Eight, a number greater than on any previous occasion, were appointed, Manius Æmilius Mamercinus a second time, Lucius Valerius Potitus a third time, Appius Claudius Crassus, Marcus Quintilius Varus, Lucius Julius Iulus, Marcus Postumius Albinus. The Veientians, on the contrary, through disgust at the annual intriguing which was sometimes the cause of dissensions, elected a king. That step gave offense to the feelings of the states of Etruria, not more from their hatred of kingly government than of the king himself. He had before this become obnoxious to the nation by reason of his wealth and arrogance, because he had violently broken off the performance of some annual games, the omission of which was deemed an impiety; when through resentment of a repulse, because another had been preferred to him as a priest by the suffrages of the twelve states, he suddenly carried off, in the middle of the performance, the performers, of whom a great part were his own slaves. The nation, therefore, devoted beyond all others to religious performances, because they excelled in the method of conducting

them, passed a decree that aid should be refused to the Veientians, as long as they should be subject to a king. All allusion to this decree was suppressed at Veii through fear of the king, who would have considered the person by whom any such matter might be mentioned as a leader of sedition, not as the author of an idle rumor. Although matters were announced to the Romans as being quiet in Etruria, yet because it was stated that this matter was being agitated in all their meetings, they so managed their fortifications, that there should be security on both sides; some were directed towards the city and the sallies of the townsmen; by means of others a front looking towards Etruria was opposed to such auxiliaries as might happen to come from there.

When the Roman generals conceived greater hopes from a blockade than from an assault, winter huts also, a thing quite new to the Roman soldier, began to be built; and their determination was to continue the war by wintering there. After an account of this was brought to Rome to the tribunes of the people, who for a long time past had found no pretext for exciting disturbances, they run forward into the assembly, stir up the minds of the commons, saying that "this was the motive for which pay had been established for the soldiers, nor had it escaped their knowledge, that such a present from the enemies was tainted with poison. That the liberty of the commons had been sold; that their youth removed for ever, and exiled from the city and the republic, did not now even yield to the winter and to the season of the year, and visit their homes and private affairs. What could they suppose was the cause for continuing the service without intermission? That undoubtedly they should find none other than (the fear) lest any thing might be done in furtherance of their interests by the attendance of those youths in whom the entire strength of the commons lay. Besides that they were harassed and worked much more severely than the Veientians. For the latter spent the winter beneath their own roofs, defending their city by strong walls and its natural situation, whilst the Roman soldier, in the midst of toil and hardship, continued beneath the covering of skins, overwhelmed with snow and frost, not laying aside his arms even during the period of winter, which is a respite from all wars by land and sea. Neither kings, nor those consuls, tyrannical as they were before the institution of the tribunitian office, nor the stern authority of the dictator, nor the overbearing decemvirs, ever imposed such slavery as that they should perform unremitting military service, which degree of regal power the military tribunes now exer-

cised over the Roman commons. What would these men have done as consuls or dictators, who have exhibited the picture of the proconsular office so implacable and menacing? but that all this happened justly. Among eight military tribunes there was no room even for one plebeian. Formerly the patricians filled up three places with the utmost difficulty; now they went in file eight deep to take possession of the various offices; and not even in such a crowd is any plebeian intermixed; who, if he did no other good, might remind his colleagues, that it was freemen and fellow citizens, and not slaves, that constituted the army, who ought to be brought back during winter at least to their homes and roofs; and to come and see at some part of the year their parents, children, and wives, and to exercise the rights of freedom, and to take part in electing magistrates. While they exclaimed in these and such terms, they found in Appius Claudius an opponent not unequal to them, who had been left behind by his colleagues to check the turbulence of the tribunes; a man trained even from his youth in contests with the plebeians; who several years before, as has been mentioned, recommended the dissolution of the tribunitian power by means of the protests of their colleagues.

Even already Appius was a match for the tribunes of the people in the popular assemblies; when suddenly a misfortune sustained before Veii, from a quarter whence no one could expect it, both gave Appius the superiority in the dispute, produced also a greater harmony between the different orders, and greater ardor to carry on the siege of Veii with more pertinacity. For when the trenches were now advanced to the very city, and the machines were almost about to be applied to the walls, whilst the works are carried on with greater assiduity by day, than they are guarded by night, a gate was thrown open on a sudden, and a vast multitude, armed chiefly with torches, cast fire about on all sides; and after the lapse of an hour the flames destroyed both the rampart and the machines, the work of so long a time, and great numbers of men, bearing assistance in vain, were destroyed by the sword and by fire. When the account of this circumstance was brought to Rome, it inspired sadness into all ranks; into the senate anxiety and apprehension, lest the sedition could no longer be withstood either in the city or in the camp, and lest the tribunes of the commons should insult over the commonwealth, as if vanquished by them; when on a sudden, those who possessed an equestrian fortune, but to whom horses had not been assigned by the public, having previously held a meeting together, went to the senate; and having obtained permission to speak,

promise that they will serve on their own horses. And when thanks were returned to them by the senate in the most complimentary terms, and the report of this proceeding spread through the forum and the city, there suddenly ensues a concourse of the commons to the senate-house. They say that "they are now of the pedestrian order, and they proffered their services to the commonwealth, though not compelled to serve, whether they wished to march them to Veii, or to any other place. If they were led to Veii, they affirm, that they would not return from thence, until the city of the enemy was taken." Then indeed they with difficulty set bounds to the joy which now poured in upon them; for they were not ordered, as in the case of the horsemen, to be publicly eulogized, the order for so doing being consigned to the magistrates, nor were they summoned into the senate-house to receive an answer; nor did the senate confine themselves within the threshold of their house, but every one of them individuallly with their voice and hands testified from the elevated ground the public joy to the multitude standing in the assembly; they declared that by that unanimity the Roman city would be happy, and invincible and eternal; praised the horsemen, praised the commons; extolled the day itself by their praises; they acknowledged that the courtesy and kindness of the senate was outdone. Tears flowed in abundance through joy both from the patricians and commons; until the senators being called back into the house, a decree of the senate was passed, "that the military tribunes, summoning an assembly, should return thanks to the infantry and cavalry; and should state that the senate would be mindful of their affectionate attachment to their country. But that it was their wish that their pay should go on for those who had, out of their turn, undertaken voluntary service. To the horsemen also a certain stipend was assigned. Then for the first time the cavalry began to serve on their own horses. This army of volunteers being led to Veii, not only restored the works which had been lost, but also erected new ones. Supplies were conveyed from the city with greater care than before; lest any thing should be wanting for the accommodation of an army who deserved so well.—Livy, V.

VII. THE TRIBUNES

ESTABLISHED ABOUT 494 B. C.

Then a commencement was made to treat of a reconciliation, and

among the conditions it was allowed, "that the commons should have their own magistrates, with inviolable privileges, who should have the power of bringing assistance against the consuls, and that it should not be lawful for any of the patricians to hold that office." Thus two tribunes of the commons were created, Caius Licinius and L. Albinus. These created three colleagues for themselves. It is clear that among these was Sicinius, the adviser of the sedition; with respect to two, who they were is not so clear. There are some who say, that only two tribunes were elected on the sacred mount, and that there the devoting law was passed.—Livy, II. 33.

Cicero on the Tribunate

Marcus. These Greek philosophers made it a grand point of inquiry whether one magistrate should be appointed in each commonwealth, to whom all the rest should be subordinate; which system, as I understand, was what was decided on by our ancestors, after the expulsion of the kings. But since the monarchial constitution which was at first preferred was changed, not so much through any fault in the monarchy, as through the vices of a monarch, it should seem that the monarchy itself still subsists, and that nothing but the name of king has been repudiated, if one magistrate is still to have authority over all the rest.

It was not without reason, therefore, that Theopompus in Lacedæmon qualified the power of the Spartan kings by the ephori, or that we Romans qualify the power with such authority by law, that they command all the other magistrates, except the tribunes, who were created some time after, in order to hinder those events from recurring which had taken place before. For the first diminution of the power of the consuls was the creation of a magistrate who was not subject to it. The next was, when this new magistrate gave his aid not only to other magistrates, but even to private citizens, who refused obedience to the consuls.

Quintus. You speak of a great evil; for since the office of the tribunes of the people was established, the authority of the nobles has declined, and the rule of the mob has gained strength.

Marcus. The case is not quite so bad as you think, my Quintus; for that power of the consuls inevitably appeared to the people not only something too arrogant, but also too violent. But since wise and moderate limitation has been imposed upon it, it diffuses law and justice to all the citizens. (Text missing.)

* * *

Let us now come to the exposition of our legal maxims, before stated; and, to pass over that earlier portion whose propriety is almost self-evident, let us notice that maxim which declares that soldiers should endeavor to return home with unblemished honor. For to good and innocent men, no prize so valuable as honor can be derived either from our enemies or our friends.

That maxim is also plainly just, that nothing can be baser than for a man to sue for an appointment as a legate, for any other interest than that of his country. I say nothing of how those men conduct and have conducted themselves, and their office or legate, pursue inheritances for themselves, and bonds, and deeds. This is a fault which must, perhaps, exist in mankind; but I ask if anything can be more scandalous than to see senators without commissions, and legates without instructions, or any public business of a patriotic kind? This sort of legation I should have abolished when consul, with the approbation of a full senate, though apparently its continuance would have been for the interest of the senate, had not a certain capricious tribune of the people opposed me. I succeeded, however, in shortening the duration of such, and, what was of great importance, made such appointments merely annual; and thus, though the scandal still remains, it has lost its perpetuity.

But now, if you please, we will quit the provinces, and once more return to Rome.

Atticus. It pleases me, certainly; but it would not at all please those who are in the provinces.

Marcus. But if they, my Atticus, were content to obey the just laws of their country, they would like nothing better than Rome, and their Roman villas; and would hold nothing more laborious and troublesome than their provincial appointments.

A law follows, which confirms to the tribunes of the people the power they possess in our commonwealth, on which I need not enlarge.

Quintus. I beg your pardon, my brother, but I particularly wish to know your opinion of this power of the tribunes. To me it appears extremely mischievous, at once the child and parent of endless seditions. If we look back to the origin of the tribunate, we find that it originally sprang up at a time of civil disturbances, when all the chief places of the city were either occupied or besieged. After this, being soon stifled, as one of those monstrous abortions which, by a law of the Twelve Tables, are not suffered to live, it again recovered its existence,

only to become baser and viler than ever.

For what kind of atrocity did it leave undone? Its first act was a piece of villainy well worthy of its impious character, namely, the abrogation of the honors of the senate and patricians. It reduced the highest ranks to an equality with the meanest, agitating and confounding all things. When it had thus insulted and violated the gravity of our nobles, it was still as insane and insensate as before. Not to mention a Flaminius and others, which you may call antiquated instances, what laws or rights did the tribune Tiberius Gracchus leave to the best and worthiest citizens? And, five years before, did not the tribune Caius Curiatius, the basest and foulest of mortals, cast into prison the consuls Decimus Brutus and Publius Scipio, men of the greatest eminence?—a thing which was wholly unprecedented. And did not C. Gracchus endeavor to overturn and revolutionize our whole commonwealth, by throwing darts and daggers into the forum, as he himself avowed, in order to excite the citizens to mutual slaughter, as if they were so many gladiators? Why need I speak of the crimes of Saturninus and others, whose violences the commonwealth could scarcely repel without civil war? But why should we mention these antique instances, belonging to other ages, when so many have occurred within our own memory? Who was ever so audacious and so inimical to us, as to nourish a thought of destroying our state, without he had first sharpened some sword of a tribune against us? And when infamous and profligate men could not find, not only in any house, but not even in any nation, any such instrument, they endeavored to create disturbances among the people in the darkest places of the republic.

And what does us infinite honor, and secures us immortal renown, is the fact, that no tribune could be engaged to appear against us by any bribe whatever, except that one who could not legally be a tribune at all, who used the tribunate as a cloak of villainy. As for this monster, what crimes did he not perpetuate—crimes which, without reason or plausible hope, he committed with the fury of some savage beast, maddened with the violence of the brutal mob. I therefore highly approve of the conduct of Sylla in this particular, inasmuch as by his law he rendered the tribunes of the people comparatively impotent for mischief, though he left them the power of giving assistance. As for our friend Pompey, in all other respects I extol him with the amplest and warmest praises,—I say nothing of his views relating to the power of the tribunes; for here I cannot praise him, and yet I would not censure him.—Cicero, On the Laws, III. 7-9.

VIII. CENSORS

ESTABLISHED 443 B. C.

This same year was the commencement of the censorship, a thing which arose from an humble origin, which afterwards increased so much in importance, that in it was vested the regulation of the morals and discipline of Rome, the senate and the centuries of the knights, the distinction of honor and of ignominy were under the sway of that office, the legal right to public and private places, the revenues of the Roman people fell under their beck and jurisdiction. The institution of the thing originated in this, that the people not having been subjected to a survey for several years, the census could neither be deferred, nor had the consuls leisure to discharge their duty, when wars impended from so many states. An observation was made by the senate, "that an office laborious in itself, and one little suited to the consular office, required a magistrate for itself, to whose authority should be submitted the duties of the several scribes, the custody and care of the records, as well as the adjustment of the form to be adopted in the census." And inconsiderable though the proposal might be, still the senate received it with great pleasure, because it increased the number of patrician magistrates in the state, judging also that that would come to pass, which really did occur, viz., that the influence of those who should preside, and the honor of the office would derive on it additional authority and dignity. The tribunes also, considering the discharge of the duty (as was really the case) as necessary rather than the duty itself, as being attended with lustre, did not indeed offer opposition, lest they should through perverseness show a disposition to thwart them even in trifles. After the honor was rejected by the leading men of the state, the people by their suffrages appointed to the office of conducting the census Papirius and Sempronius, concerning whose consulate doubts are entertained, that in that magistracy they might have some recompense for the incompleteness of their consulate. They were called censors from the nature of their office.—Livy, IV. 8.

IX. LICINIAN LAW

361 B. C.

There appeared a favorable opportunity for making innovations on account of the immense load of debt, no alleviation of which evil the commons could hope for unless their own party were placed in the highest authority. To (bring about) that object (they saw) that they should exert themselves. That the plebeians, by endeavoring and persevering, had already gained a step towards it, whence, if they struggled forward, they might reach the summit, and be on a level with the patricians, in honor as well as in merit. For the present it was resolved that plebeian tribunes should be created, in which office they might open for themselves a way to other honors. And Caius Licinius and Lucius Sextius, being elected tribunes, proposed laws all against the power of the patricians, and for the interests of the commons: one regarding the debt, that, whatever had been paid in interest being deduced from the principal, the remainder should be paid off in three years by equal installments; the other concerning the limitation of land, that no one should possess more than five hundred acres of land; a third, that there should be no election of military tribunes, and that one at least of the consuls should be elected from the commons; all matters of great importance, and such as could not be attained without the greatest struggles. A contest therefore for all those objects, of which there is ever an inordinate desire among men, viz., land, money, and honors, being now proposed, the patricians became terrified and dismayed, and finding no other remedy in their public and private consultations except the protest, which had been tried in many previous contests, they gained over their colleagues to oppose the bills of the tribunes. When they saw the tribes summoned by Licinius and Sextius to announce their votes, surrounded by bands of patricians, they neither suffered the bills to be read, nor any other usual form for taking the votes of the commons to be gone through. And now assemblies being frequently convened to no purpose, when the propositions were now considered as rejected; "It is very well," says Sextius; "since it is determined that a protest should possess so much power, by that same weapon will we protect the people. Come, patricians, proclaim an assembly for the election of military tribunes; I will take care that that word, I *forbid it,* which you listen to our colleagues chaunting

with so much pleasure, shall not be very delightful to you. Nor did the threats fall ineffectual: no elections were held, except those of ædiles and plebeian tribunes. Licinius and Sextius, being re-elected plebeian tribunes, suffered not any curule magistrates to be appointed, and this total absence of magistrates continued in the city for the space of five years, the people re-electing the two tribunes, and these preventing the election of military tribunes.

There was an opportune cessation of other wars: the colonists of Velitræ, becoming wanton through ease, because there was no Roman army, made repeated incursions on the Roman territory, and set about laying siege to Tusculum. This circumstance, the Tusculans, old allies, new fellow-citizens, imploring aid, moved not only the patricians, but the commons also, chiefly with a sense of honor. The tribunes of the commons relaxing their opposition, the elections were held by the interrex; and Lucius Furius, Aulus Manlius, Servius Sulpicius, Servius Cornelius, Publius and Caius Valerius, found the commons by no means so complying in the levy as in the elections; and an army having been raised amid great contention, they set out, and not only dislodged the enemy from Tusculum, but shut them up even within their own walls. Velitræ began to be besieged by a much greater force than that with which Tusculum had been besieged; nor still could it be taken by those by whom the siege had been commenced. The new military tribunes were elected first: Quintius Servilius, Caius Veturius, Aulus and Marcus Cornelius, Quintus Quintius, Marcus Fabius. Nothing worthy of mention was performed even by these at Velitræ. Matters were involved in greater peril at home: for besides Sextius and Licinius, the proposers of the laws, re-elected tribunes of the commons now for the eighth time, Fabius also, military tribune, father-in-law of Stolo, avowed himself the unhesitating supporter of those laws of which he had been the adviser. And whereas, there had been at first eight of the college of the plebeian tribunes protesters against the laws, there were now only five: and (as is usual with men who leave their own party) dismayed and astounded, they in words borrowed from others, urged as a reason for their protest, that which had been taught them at home; "that a great number of the commons were absent with the army at Velitræ; that the assembly ought to be deferred till the coming of the soldiers, that the entire body of the commons 'might give their vote concerning their own interests." Sextius and Licinius with some of their colleagues, and Fabius, one of the military tribunes, well-versed now by an experience of many years in managing

the minds of the commons, having brought forward the leading men of the patricians, teased them by interrogating them on each of the subjects which were about to be brought before the people: "would they dare to demand, that when two acres of land a head were distributed among the plebeians, they themselves should be allowed to have more than five hundred acres? that a single man should possess the share of nearly three hundred citizens; whilst his portion of land scarcely extended for the plebeian to a stinted habitation and a place of burial? Was it their wish that the commons, surrounded with usury, should surrender their persons to the stocks and to punishment, rather than pay off their debt by (discharging) the principal; and that persons should be daily led off from the forum in flocks, after being assigned to their creditors, and that the houses of the nobility should be filled with prisoners? and that wherever a patrician dwelt, there should be a private prison?"

When they had uttered these statements, exasperating and pitiable in the recital, before persons alarmed for themselves, exciting greater indignation in the hearers than was felt by themselves, they affirmed "that there never would be any other limit to their occupying the lands, or to their butchering the commons by usury, unless the commons were to elect one consul from among the plebeians, as a guardian of their liberty. That the tribunes of the commons were now despised, as being an office which breaks down its own power by the privilege of protest. That there could be no equality of right, where the dominion was in the hands of the one party, assistance only in that of the other. Unless the authority were shared, the commons would never enjoy an equal share in the commonwealth; nor was there any reason why any one should think it enough that plebeians were taken into account at the consular elections; unless it were made indispensable that one consul at least should be from the commons, no one would be elected. Or had they already forgotten, that when it had been determined that military tribunes should be elected rather than consuls, for this reason, that the highest honors should be opened to plebeians also, no one out of the commons was elected military tribune for forty-four years? How could they suppose, that they would voluntarily confer, when there are but two places, a share of the honor on the commons, who at the election of military tribunes used to monopolize the eight places? and that they would suffer a way to be opened to the consulship, who kept the tribuneship so long a time fenced up? That they must obtain by a law, what could not be obtained by influence at elections; and that

one consulate must be set apart out of the way of contest, to which the commons may have access; since when left open to dispute it is sure ever to become the prize of the more powerful. Nor can that now be alleged, which they used formerly to boast of, that there were not among the plebeians qualified persons for curule magistracies. For, was the government conducted with less activity and less vigor, since the tribunate of Publius Licinius Calvus, who was the first plebeian elected to that office, than it was conducted during those years when no one but patricians was a military tribune? Nay, on the contrary, several patricians had been condemned after their tribuneship, no plebeian. Quæstors also, as military tribunes, began to be elected from the commons a few years before; nor had the Roman people been dissatisfied with any one of them. The consulate still remained for the attainment of the plebeians; that it was the bulwark, the prop of their liberty. If they should attain that, then that the Roman people would consider that kings are really expelled from the city, and their liberty firmly established. For from that day that everything in which the patricians surpassed them, would flow in on the commons, power and honor, military glory, birth, nobility, valuable at present for their own enjoyment, sure to be left still more valuable to their children." When they saw such discourses favorably listened to, they published a new proposition; that instead of two commissioners for performing religious rites, ten should be appointed; so that one-half should be elected out of the commons, the other half from the patricians; and they deferred the meeting (for the discussion) of all those propositions, till the coming of that army which was besieging Velitræ.

The year was completed before the legions were brought back from Velitræ. Thus the question regarding the laws was suspended and deferred for the new military tribunes; for the commons re-elected the same two plebeian tribunes, because they were the proposers of the laws. Titus Quinctius, Servius Cornelius, Servius Sulpicius, Spurius Servilius, Lucius Papirius, Lucius Valerius, were elected military tribunes. Immediately at the commencement of the year the question about the laws was pushed to the extreme of contention; and when the tribes were called, nor did the protest of their colleagues prevent the proposers of the laws, the patricians being alarmed have recourse to their two last aids, to the highest authority and the highest citizen. It is resolved that a dictator be appointed: Marcus Furius Camillus is appointed, who nominates Lucius Æmilius his master of the horse. To meet so powerful a measure of their opponents, the proposers of the

laws also set forth the people's cause with great determination of mind, and having convened an assembly of the people, they summon the tribes to vote. When the dictator took his seat, accompanied by a band of patricians, full of anger and of threats, and the business was going on at first with the usual contention of the plebeian tribunes, some proposing the law and others protesting against it, and though the protest was more powerful by right, still it was overpowered by the popularity of the laws themselves and of their proposers, and when the first tribes pronounced, "Be it as you propose," then Comillus says, "Since, Romans, tribunitian extravagance, not authority, sways you now, and ye are rendering the right of protest, acquired formerly by a secession of the commons, totally unavailing by the same violent conduct by which you acquired it, I, as dictator, will support the right of protest, not more for the interest of the whole commonwealth than for your sake; and by my authority I will defend your rights of protection, which have been overturned. Wherefore if Caius Licinius and Lucius Sextius give way to the protest of their colleagues, I shall not introduce a patrician magistrate into an assembly of the commons. If, in opposition to the right of protest, they will strive to saddle laws on the state as though captive, I will not suffer the tribunitian power to be destroyed by itself." When the plebeian tribunes still persisted in the matter with unabated energy and contemptuously, Camillus, being highly provoked, sent his lictors to disperse the commons; and added threats, that if they persisted he would bind down the younger men by the military oath, and would forthwith lead an army out of the city. He struck great terror into the people; by the opposition he rather inflamed than lessened the spirits of their leaders. But the matter inclining neither way, he abdicted his dictatorship, either because he had been appointed with some informality, as some have stated; or because the tribunes of the people proposed to the commons, and the commons passed it, that if Marcus Furius did anything as dictator, he should be fined five hundred thousand *asses*. But both the disposition of the man himself, and the fact that Publius Manlius was immediately substituted as dictator for him, incline me to believe, that he was deterred rather by some defect in the auspices than by this unprecedented order. What could be the use of appointing him (Manlius) to manage a contest in which Camillus had been defeated? and because the following year had the same Marcus Furius dictator, who certainly would not without shame have resumed an authority which but the year before had been worsted in his hands; at the same time, because

at the time when the motion about fining him is said to have been published, he could either resist this order, by which he saw himself degraded, or he could not have obstructed those others on account of which this was introduced, and throughout the whole series of disputes regarding the tribunitian and consular authority, even down to our own memory, the pre-eminence of the dictatorship was always decided.

Between the abdication of the former dictatorship and the new one entered on by Manlius, an assembly of the commons being held by the tribunes, as if it were an interregnum, it became evident which of the laws proposed were more grateful to the commons, which to the proposers. For they passed the bills regarding the interest and the land, rejected the one regarding the plebeian consulate. And both decisions would have been carried into effect, had not the tribunes declared that they consulted the people on all the laws collectively. Publius Manlius, dictator, then inclined the advantage to the side of the people, by naming Caius Licinius from the commons, who had been military tribune, as master of the horse. The patricians, I understand, were much displeased at this nomination, but the dictator used to excuse himself to the senate, alleging the near relationship between him and Licinius; at the same time denying that the authority of master of the horse was higher than that of consular tribune. When the elections for the appointment of plebeian tribunes were declared, Licinius and Sextius so conducted themselves, that by denying that they any longer desired a continuation of the honor, they most powerfully stimulated the commons to effectuate that which they were anxious for notwithstanding their dissimulation. "That they were now standing the ninth year as it were in battle-array against the patricians, with the greatest danger to their private interests, without any benefit to the public. That the measures published, and the entire strength of the tribunitian authority, had grown old with them; the attack was made on their propositions, first by the protest of their colleagues, then by banishing their youth to the war at Velitræ; at length the dictatorial thunder was levelled against them. That now neither colleagues, nor war, nor dictator stood in their way; as being a man, who by nominating a plebeian as master of the horse, has even given an omen for a plebeian consul. That the commons retarded themselves and their interests. They could, if they liked, have the city and forum free from creditors, their lands immediately free from unjust possessors. Which kindnesses, when would they ever estimate them with sufficiently grateful feelings, if, whilst receiving the measures respecting their own inter-

ests, they cut away from the authors of them all hopes of distinction? That it was not becoming the modesty of the Roman people to require that they themselves be eased from usury, and be put in possession of the land unjustly occupied by the great, whilst they leave those persons through whom they attain these advantages, become old tribunitians, not only without honour, but even without the hope of honour. Wherefore they should first determine in their minds what choice they would make, then declare that choice at the tribunitian elections. If they wish that the measures published by them should be passed collectively, there was some reason for re-electing the same tribunes; for they would carry into effect what they published. But if they wished that only to be entertained which may be necessary for each in private, there was no occasion for the invasion for the invidous continuation of honour; that they would neither have the tribuneship, nor the people those matters which were proposed.

40. In reply to such preemptory language of the tribune, when amazement at the insolence of their conduct and silence struck all the rest of the patricians motionless, Appius Claudius Crassus, the grandson of the decemvir, is said to have stepped forward to refute their arguments, [urged on] more by hatred and anger than by hope [of succeeding], and to have spoken nearly to this effect: "Romans, to me it would be neither new nor surprising, if I too on the present occasion were to hear that one charge, which has ever been advanced against our family by turbulent tribunes, that even from the beginning nothing in the state has been of more importance to the Claudian family than the dignity of the patricians; that they have ever resisted the interests of the commons. Of which charges I neither deny nor object to the one, that we, since we have been admitted into the state and the patricians, have strenuously done our utmost, that the dignity of those families, among which ye were pleased that we should be, might be truly said rather to have been increased than diminished. With respect to the other, in my own defence and that of my ancestors, I would venture to maintain, Romans, (unless any one may consider those things, which may be done for the general good of the state, were injurious to the commons as if inhabitants of another city,) that we, neither in our private nor in our official capacity, ever knowingly did any thing which was intended to be detrimental to the commons; and that no act nor word of ours can be mentioned with truth contrary to your interest (though some may have been contrary to your inclinations.) Even though I were not of the Claudian family, nor descended

from patrician blood, but an ordinary individual of the Roman citizens, who merely felt that I was descended from free-born parents, and that I lived in a free state, could I be silent on this matter: that Lucius Sextius and Caius Licinius, perpetual tribunes, forsooth, have assumed such a stock of arrogance during the nine years in which they have reigned, as to refuse to allow you the free exercise of your suffrage either at the elections or in enacting laws. On a certain condition, one of them says, ye shall re-elect us tribunes for the tenth time. What else is it, but saying, what others sue for, we disdain so thoroughly, that without some consideration we will not accept it? But in the name of goodness, what is that consideration, for which we may always have you tribunes of the commons? that ye admit collectively all our measures, whether they please or displease, are profitable or unprofitable. I beg you, Tarquinii, tribunes of the commons, suppose that I, an individual citizen, should call out in reply from the middle of the assembly, With your good leave be it permitted us to select out of these measures those which we deem to be beneficial to us; to reject the others. It will not be permitted, he says. Must you enact concerning the interest of money and the lands, that which tends to the interest of you all; and must not this prodigy take place in the city of Rome, that of seeing Lucius Sextius and this Caius Licinius consuls, a thing which you loathe and abominate? Either admit all; or I propose none. Just as if any one were to place poison and food together before any one who was oppressed with famine, and order him either to abstain from that which would sustain life, or to mix with it that which would cause death. Wherefore, if this state were free, would they not all in full assembly have replied to you, Begone hence with your tribuneships and your propositions? What? if you will not propose that which it is the interest of the people to accept, will there be no one who will propose it? If any patrician, if (what they desire to be still more invidious) any Claudius should say, Either accept all, or I propose nothing; which of you, Romans, would bear it? Will ye never look at facts rather than persons? but always listen with partial ears to every thing which that officer will say, and with prejudiced ears to what may be said by any of us? But, by Jove, their language is by no means becoming members of the republic. What! what sort is the measure, which they are indignant as its having been rejected by you? very like their language, Romans. I ask, he says, that it may not be lawful for you to elect, as consuls, such persons as ye may wish. Does he require anything else, who orders that one consul at least be elected from the commons; nor

does he grant you the power of electing two patricians? If there were wars at the present day, such as the Etrurian for instance, when Porsenna took the Janiculum, such as the Gallic war lately, when, except the Capitol and citadel, all these places were in possession of the enemy; and should Lucius Sextius stand candidate for the consulate with Marcus Furius or any other of the patricians: could ye endure that Sextius should be consul without any risk; that Camillus should run the risk of a repulse? Is this allowing a community of honours, that it should be lawful that two plebeians, and not lawful that two patricians, be made consuls, and that it should be necessary that one be elected from among the commons, and lawful to pass by both of the patricians? what fellowship, what confederacy is that? Is it not sufficient, if you come in for a share of that in which you had no share hitherto, unless whilst suing for a part you seize on the whole? I fear, he says, lest, if it be lawful that two patricians are to be elected, ye will elect no plebeian. What else is this but saying, Because ye will not of your own choice elect unworthy persons, I will impose on you the necessity of electing persons whom you do not wish? What follows, but that if one plebeian stand candidate with two patricians, he owes no obligation to the people, and may say that he was appointed by the law, not by suffrages?

41. "How they may extort, not how they may sue for honours, is what they seek: and they are anxious to attain the highest honours, so that they may not owe the obligations incurred even for the lowest; and they prefer to sue for honours rather through favourable conjunctures than by merit. Is there any one who can feel it an affront to have himself inspected and estimated; who thinks it reasonable that to himself alone, amidst struggling competitors, honours should be certain? who would withdraw himself from your judgment? who would make your suffrages necessary instead of voluntary; servile instead of free? I omit mention of Licinius and Sextius, whose years of perpetuated power ye number, as that of the kings in the Capitol; who is there this day in the state so mean, to whom the road to the consulate is not rendered easier through the advantages of that law, than to us and to our children? inasmuch as you will sometimes not be able to elect us even though you may wish it; those persons you must elect, even though you were unwilling. Of the insult offered to merit enough has been said (for merit appertains to human beings); what shall I say respecting religion and the auspices, which is contempt and injustice relating exclusively to the immortal gods? Who is there that does not

know that this city was built by auspices, that all things are conducted by auspices during war and peace, at home and abroad? In whom therefore are the auspices vested according to the usage of our forefathers? In the patricians, no doubt; for no plebeian magistrate is ever elected by auspices. So peculiar to us are the auspices, that not only do the people elect in no other manner, save by auspices, the patrician magistrates whom they do elect, but even we ourselves, without the suffrage of the people, appoint the interrex by auspices, and in our private station we hold those auspices, which they do not hold even in office. What else then does he do, than abolish auspices out of the state, who, by creating plebeian consuls, takes them away from the patricians who alone can hold them? They may not mock a religion. For what else is it, if the chickens do not feed? if they come out too slowly from the coop? if a bird chaunt an unfavourable note? These are trifling: but by not despising these trifling matters, our ancestors have raised this state to the highest eminence. Now, as if we had no need of the favour of the gods, we violate all religious ceremonies. Wherefore let pontiffs, augurs, kings of the sacrifices be appointed at random. Let us place the tiara of Jupiter's flamen on any person, provided he be a man. Let us hand over the ancilia, the shrines, the gods, and the charge of the worship of gods, to those to whom it is impious to commit them. Let not laws be enacted, nor magistrates elected under the auspices. Let not the senate give their approbation, either to the assemblies of the centuries or of the Curiæ. Let Sextius and Licinius, like Romulus and Tatius, reign in the city of Rome, because they give away as donations other persons' money and lands. So great is the charm of plundering the possessions of other persons: nor does it occur to you that by the one law vast wilds are produced throughout the lands by expelling the proprietors from their territories; by the other credit is destroyed, along with which all human society ceases to exist. For every reason, I consider that those propositions ought to be rejected by you. Whatever ye may do, I pray the gods to render it successful."

42. The speech of Appius merely had this effect, that the time for passing the propositions was deferred. The same tribunes, Sextius and Licinius, being re-elected for the tenth time, succeeded in passing a law, that of the decemvirs for religious matters, one half should be elected from the commons. Five patricians were elected, and five of the plebeians; and by that step the way appeared opened to the consulship. The commons, contented with this victory, yielded to the

patricians, that, all mention of consuls being omitted for the present, military tribunes should be elected. Those elected were, Aulus and Marcus Cornelius a second time, Marcus Geganius, Publius Manlius, Lucius Veturius, and Publius Valerius a sixth time. When, except the seige of Velitræ, a matter rather of a slow than dubious result, there was no disquiet from foreign concerns among the Romans; the sudden rumour of a Gallic war being brought, influenced the state to appoint Marcus Furius dictator for the fifth time. He named Titus Quinctius Pennus master of the horse. Claudius asserts that a battle was fought that year with the Gauls, on the banks of the Anio; and that then the battle was fought on the bridge, in which Titus Manlius, engaging with a Gaul by whom he had been challenged, slew him in the sight of the two armies and dispoiled him of his chain. But I am induced by the authority of several writers to believe that those things happened not less than ten years later; but that in the year a pitched battle was fought with the Gauls by the dictator, Marcus Furius, in the territory of Alba. The victory was neither doubtful nor difficult to the Romans, though from the recollection of the former defeat the Gauls had diffused great terror. Many thousands of the barbarians were slain in the field, and great numbers in the storming of the camp. The rest dispersing, making chiefly for Apulia, saved themselves from the enemy, both by continuing their fight to a great distance, and also because panic and terror had scattered them very widely. A triumph was decreed to the dictator with the concurrence of the senate and commons. Scarcely had he as yet finished the war, when a more violent disturbance awaited him at home; and by great struggling the dictator and the senate were overpowered, so that the measures of the tribunes were admitted; and the elections of the consuls were held in spite of the resistance of the nobility, at which Lucius Sextius was made consul, the first of plebeian rank. And not even was that an end of the contests. Because the patricians refused to give their approbation, the affair came very near a secession of the people, and other terrible threats of civil contests: when, however, the dissensions were accommodated on certain terms through the interference of the dictator; and concessions to the commons were made by the nobility regarding the plebeian consul; by the commons to the nobility with respect to one prætor to be elected out of the patricians, to administer justice in the city. The different orders being at length restored to concord after their long-continued animosity, when the senate were of opinion that for the sake of the immortal gods they would readily do a thing deserving, and that justly, if ever on any

occasion before, that the most magnificent games should be performed, and that one day should be added to the three; the plebeian ædiles refusing the office, the young patricians cried out with one accord, that they, for the purpose of paying honour to the immortal gods, would readily undertake the task, so that they were appointed ædiles. And when thanks were returned to them by all, a decree of the senate passed, that the dictator should ask of the people two persons as ædiles from among the patricians; that the senate should give their approbation to all the elections of that year.—Livy VI, 35-42.

X. THE PRAETORSHIP

ESTABLISHED 367 B. C.

1. This year will be remarkable for the consulship of a man of mean birth, remarkable for two new magistracies, the prætorship and curule ædileship. These honours the patricians claimed to themselves, in consideration of one consulship having been conceded to the plebeians. The commons gave the consulship to Lucius Sextius, by whose law it had been obtained. The Patricians by their popular influence obtained the prætorship for Spurius Furius Camillus, the son of Marcus, the ædileship for Cneius Quinctius Capitolinus and Publius Cornelius Scipio, men of their own rank. To Lucius Sextius, the patrician colleague assigned was Lucius Æmilius Mamercinus. In the beginning of the year mention was made both of the Gauls, who, after having strayed about through Apulia, it was now rumored were forming into a body: and also concerning a revolt of the Hernicians. When all business was purposely deferred, so that nothing should be transacted through means of the plebeian consul, silence was observed on all matters, and a state of inaction like to a justitium; except that, the tribunes not suffering it to pass unnoticed that the nobility had arrogated to themselves three patrician magistracies as a compensation for one plebeian consul sitting in curule chairs, clad in the prætexta like consuls; the prætor, too, administering justice, and as if colleague to the consuls, and elected under the same auspices, the senate were in consequence made ashamed to order the curule ædiles to be elected from among the patricians. It was at first agreed, that they should be elected from the commons every second year: afterwards the matter was left open.—Livy, VII. 1.

XI. PUBLILIAN LAW
336 B. C.

Publilius, under whose guidance and auspices the action had been fought, receiving the submission of the Latin states, who had lost a great many of their young men there, Æmilius marched the army to Pedum. The people of Pedum were supported by the states of Tibur, Præneste, and Velitræ; auxiliaries had also come from Lanuvium and Antium. Where, though the Romans had the advantage in several engagements, still the entire labour remained at the city of Pedum itself and at the camp of the allied states, which were adjoining the city; suddenly leaving the war unfinished, because he heard that a triumph was decreed to his colleague, he himself also returned to Rome to demand a triumph before a victory had been obtained. The senate displeased by this ambitious conduct, and refusing a triumph unless Pedum was either taken or surrendered, Æmilius, alienated from the senate in consequence if this act, administered the remainder of the consulship like to a seditious tribuneship. For, as long as he was consul, he neither ceased to criminate the patricians to the people, his colleague by no means interfering, because he himself also was a plebeian; (the scanty distribution of the land among the commons in the Latin and Falernian territory afforded the groundwork of the criminations;) and when the senate, wishing to put an end to the administration of the consuls, ordered a dictator to be nominated against the Latins, who were again in arms, Æmilius, to whom the fasces then belonged, nominated his colleague dictator; by him Junius Brutus was constituted master of the horse. The dictatorship was popular, both in consequence of his discourses containing invectives against the patricians, and because he passed three laws, most advantageous to the commons, and injurious to the nobility; one, that the orders of the commons should be binding on all the Romans; another, that the patricians should, before the suffrages commenced, declare their approbation of the laws which should be passed in the assemblies of the centuries; the third that one at least of the censors should be elected from the commons, as they had already gone so far as that is was lawful that both the consuls should be plebeians. The patricians considered that more of detriment had been sustained on that year from the consuls and dictator than was counterbalanced by their success and achievements abroad.

XII. OGULNIAN LAW

300 B. C.

6. During this consulate of Marcus Velerius and Quintus Appuleius, affairs abroad wore a very peaceable aspect. Their losses sustained in war, together with the truce, kept the Etrurians quiet. The Samnites, depressed by the misfortunes of many years, had not yet become dissatisfied with their new alliance. At Rome, also, the carrying away of such multitudes to colonies, rendered the commons tranquil, and lightened their burdens. But, that things might not be tranquil on all sides, a contention was excited between the principal persons in the commomwealth, patricians on one hand, and plebeians on the other, by the two Ogulnii, Quintus and Cneius, plebeian tribunes, who, seeking every where occasions of criminating the patricians in the hearing of the people, and having found they might inflame, not the lowest class of the commons, but their chief men, the plebeians of consular and triumphal rank, to the complexion of whose honours nothing was now wanting but the officers of the priesthood, which were not yet laid open to them. They therefore published a proposal for a law, that, whereas there were then four augurs and four pontiffs, and it had been determined that the number of priests should be augmented, the four additional pontiffs and five augurs should all be chosen out of the commons. How the college of augurs could be reduced to the number of four, except by the death of two, I do not understand: for it is a rule among the augurs, that their number sould be composed of threes, so that the three ancient tribes, the Ramnes, Titienses, and Luceres, should have each its own augur; or, in case there should be occasion for more, that each should increase its number of augurs, in equal proportion with the rest, in like manner as when, by the addition of five or four, they made up the number nine, so that there were three to each tribe. However, as it was proposed that they should be chosen out of the commons, the patricians were as highly offended at the proceeding, as when they saw the consulship made common; yet they pretended that the business concerned not them so much as it did the gods, who would "take care that their own worship should not be contaminated; that, for their parts, they only wished that no misfortune might ensue to the commonwealth." But they made a less vigorous opposition, as being now accustomed to suffer defeat in such kind of disputes; and they saw their adversaries,

not, as formerly, grasping at that which they could scarcely hope to reach, the higher honours; but already in possession of all those advantages, on the uncertain prospect of which they had maintained the contest, manifold consulships, censorships, and triumphs.

The principal struggle, however, in supporting and opposing the bill, they say, was between Appius Claudius and Publius Decius Mus. of patricians and plebeians, which had been formerly employed for and against the Licinian law, when the proposition was brought forward of opening the consulship to plebeians, Decius is said to have drawn a lively description of his own father, such as many then present in the assembly had seen him, girt in the Gabine dress, standing on a spear, in the attitude in which he had devoted himself for the people and the legions, and to have added, that "the consul Publius Decius was then deemed by the immortal gods an offering equally pure and pious, as if his colleague, Titus Manlius, had been devoted. And might not the same Publius Decius have been, with propriety, chosen to perform the public worship of the Roman people? Was there any danger that the gods would give less attention to his prayer than to those of Appius Claudius? Did the latter perform his private acts of adoration with a purer mind, or worship the gods more religiously than he? Who had any reason to complain of the vows offered in behalf of the commonwealth, by so many plebeian consuls and dictators, either when setting out to their armies, or in the heat of battle? Were the numbers of commanders reckoned, during those years since business began to be transacted under the conduct and auspices of plebeians, the same number of triumphs might be found. The commons had now no reason to be dissatisfied with their own nobility. On the contrary, they were fully convinced, that in case of a sudden war breaking out, the senate and people of Rome would not repose greater confidence in patrician than in plebeian commanders. Which being the case," said he, "what god or man can deem it an impropriety, if those whom ye have honored with curule chairs, with the purple bordered gown, with the palm-vest and embroidered robe, with the triumphal crown and laurel, whose houses ye have rendered conspicuous above others, by affixing to them the spoils of conquered enemies, should add to these the badges of augurs or pontiffs? If a person, who has ridden through the city in a gilt chariot; and, decorated with the ensigns of Jupiter, supremely good and great, has mounted the Capitol, should be seen with a chalice and wand; what impropriety, I say, that he should, with his head veiled, slay a victim,

or take an augury in the citadel? When, in the inscription on a person's statue, the consulship, censorship, the triumph shall be read with patience, will the eyes of readers be unable to endure the addition of the office of augur or pontiff? In truth (with deference to the gods I say it) I trust that we are, through the kindness of the Roman people, qualified in such a manner that we should, by the dignity of our characters, reflect back on the priesthood, not less lustre than we should receive; and may demand, rather on behalf of the gods, than for our own sakes, that those whom we worship in our private we may also worship in a public capacity.

"But why do I argue thus, as if the cause of the patricians, respecting the priesthood, were untouched? and as if we were not already in possession of one sacerdotal office, of the highest class? We see plebeian decemvirs, for performing sacrifices, interpreters of the Sibylline prophecies, and of the fates of the nation; we also see them presidents of Apollo's festival, and of other religious performances. Neither was any injustice done to the patricians, when, to the two commissioners for performing sacrifices, an additional number was joined, in favor of the plebeians; nor is there now, when a tribune, a man of courage and activity, wishes to add five places of augurs, and four of pontiffs, to which plebeians may be nominated; not, Appius, with intent to expel you from your places; but, that men of plebeian rank may assist you, in the management of divine affairs, with the same zeal with which they assist you in matters of human concernment. Blush not, Appius, at having a man your colleague in the priesthood, whom you might have a colleague in the censorship or consulship, whose master of the horse you yourself may be, when he is dictator, as well as dictator when he is master of the horse. A Sabine adventurer, the first origin of your nobility, either Attus Clausus, or Appius Claudius, which you will, the ancient patricians of those days admitted into their number: do not then, on your part, disdain to admit us into the number of priests. We bring with us numerous honors; all those honors, indeed, which have rendered your party so proud. Lucius Sextius was the first consul chosen out of the plebeians; Caius Licinius Stolo, the first master of the horse; Caius Marcius Rutilus, the first dictator, and likewise censor; Quintus Publilius Philo, the first prætor. On all occasions was heard a repetition of the same arguments; that the right of auspices was vested in you; that ye alone had the rights of ancestry; that ye alone were legally entitled to supreme command, and the auspices both in peace and war. The supreme command has hitherto been, and will continue

to be, equally prosperous in plebeian hands as in patrician. Have ye never heard it said, that the first created patricians were not men sent down from heaven, but such as could cite their fathers, that is, nothing more than free born. I can now cite my father, a consul; and my son will be able to cite a grandfather. Citizens, there is nothing else in it, than that we should never obtain anything without a refusal. The patricians wish only for a dispute; nor do they care what issue their disputes may have. For my part, be it advantageous, happy, and prosperous to you and to the commonwealth, I am of opinion that this law should receive your sanction."

The people ordered that the tribes should be instantly called; and there was every appearance that the law would be accepted. It was deferred, however, for that day, by a protest, from which on the day following the tribunes were deterred; and it passed with the approbation of a vast majority. The pontiffs created were, Publius Decius Mus, the advocate for the law; Publius Sempronius Sophus, Caius Marcius Rutilus, and Marcus Livius Denter. The five augurs, who were also plebeians, were, Caius Genucius, Publius Ælius Pætus, Marcus Minucius Fessus, Caius Marcius, and Titus Publilius. Thus the number of the pontiffs was made eight; that of the augurs nine. In the same year Marcus Valerius, consul, procured a law to be passed concerning appeals; more carefully enforced by additional sanctions. This was the third time, since the expulsion of the kings, of this law being introduced, and always by the same family. The reason for renewing it so often was, I believe, no other, than that the influence of a few was apt to prove too powerful for the liberty of the commons. However, the Porcian law seemed intended, solely, for the security of the persons of the citizens; as it visited with a severe penalty any one for beating with stripes or putting to death a Roman citizen. The Valerian law, after forbidding a person, who had appealed, to be beaten with rods and beheaded, added, in case of any one acting contrary thereto, that it shall yet be only deemed a wicked act. This, I suppose, was judged of sufficient strength to enforce obedience to the law in those days; so powerful was then men's sense of shame; at present one would scarcely make use of such a threat seriously. The Æquans rebelling, the same consul conducted the war against them; in which no memorable event occurred; for, except ferocity, they retained nothing of their ancient condition. The other consul, Appuleius, invested the town of Nequinum in Umbria. The ground, the same whereon Narnia now stands, was steep (on one side even perpendicular); this rendered the town impregnable either by

assault or works. That business, therefore, came unfinished into the hands of the succeeding consuls, Marcus Fulvius Pætinus and Titus Manlius Torquatus. When all the centuries named Quintus Fabius consul for that year though not a candidate, Macer Licinius and Tubero state that he himself recommended them to postpone the conferring the consulship on him until a year wherein there might be more employment for their arms, adding, that, during the present year, he might be more useful to the state in the management of a city magistracy; and thus, neither dissembling what he preferred, nor yet making direct application for it, he was appointed curule ædile with Lucius Papirius Cursor. Piso, a more ancient writer of annals, prevents me from averring this as certain; he asserts that the curule ædiles of that year were Caius Domitius Calvinus, son of Cneius, and Spurius Carvilius Maximus, son of Caius. I am of opinion, that this latter surname caused a mistake concerning the ædiles; and that thence followed a story conformable to this mistake, patched up out of the two elections, of the ædiles, and of the consuls. The general survey was performed, this year, by Publius Sempronius Sopho and Publius Sulpicius Saverrio, censors; and two tribes were added, the Aniensian and Terentine. Such were the occurrences at Rome.—Livy, X. 6-9.

XIII. QUESTOR

ESTABLISHED DURING THE MONARCHY BEFORE 509 B. C.

During the same consulship, Publius Dolabella proposed a new regulation, requiring that a public spectacle of gladiators should be exhibited annually at the expense of such as obtained the office of questor. In the early stages of the commonwealth that magistracy was considered as the reward of virtue. The honors of the state lay open to every citizen who relied on his fair endeavors, and the integrity of his character. The difference of age created no incapacity. Men in the prime of life might be chosen consuls and dictators. The office of questor was instituted during the monarchy, as appears from the law *Curiata* which was afterwards put in force by Lucius Junius Brutus. The right of election was vested in the consuls, till at last it centered in the people at large; and accordingly we find that about sixty-three years after the expulsion of the Tarquins, Valerius Potitus and Æmilius Mamercus were the first popular questors, created to attend the armies of the republic. The multiplicity of affairs increasing at Rome,

two were added to act in a civil capacity. In the course of time, when all Italy was reduced to subjection, and foreign provinces augmented the public revenue, the number of questors was doubled. Sulla created twenty; he had transferred all judicial authority to the senate; and to fill that order with its proper complement was the object of his policy. The Roman knights, it is true, recovered their ancient jurisdiction; but even during those convulsions, and from that era to the time we are speaking of, the questorship was either obtained through the merit and dignity of the candidates, or granted by the favor and free will of the people. It was reserved for Dolabella to make the election venal.—Tacitus, Annals, XI. 22.

XIV. HORTENSIAN LAW.

287 B. C.

Hortensius, the Dictator, on the secession of the plebeians to the Janiculum hill, passed a law to the effect that whatever law the plebeians had enacted should be binding upon every Roman citizen.—Pliny the Elder (24-79 A. D.) Natural History, XVI. 10. 37.

In the first book of Lælius Felix addressed to Mucius, Labeo is said to have written that the *comitia calata* are those which are held for the college of priests or to inaugurate the president of the sacrifices or the flamens; that some of these were curiata, others centuriata. The curiata were summoned by the lictor curiatus, the centuriata by a trumpeter. At the same *comitia,* which we have said are called *calata,* the renunciation of the sacred rites, and the making of testaments took place. There were three kinds of testaments: one which was made at *comitia calata* in the assembly of the people; the second in the army when they were drawn up in line to engage in battle; the third, by emancipation of a family, in which the coin and the scales were used. In the same book of Lælius Felix this is written: "He who requires not the whole people, but only a part, to be present, should summon not a *comitia* but a *concilium.* Tribunes dare not summon patricians, nor refer any case to them; so the things that are passed at the instance of the instance of the tribunes of the people are not properly called *leges* but *plebiscita.* Patricians were not formerly bound by these edicts, until Q. Hortensius, the dictator, made this law, that all the citizens should be bound by the laws passed by the people." The following passage

also occurs in the same book: "When the vote was taken by families, the comitia was called curiata; when it was taken according to property and age, *centuriata;* when according to residence and locality, *tributa.* The *comitia centuriata* must not be held within the walls of the city, because the army must be commanded outside of the city, and not lawfully inside of it. Accordingly the *centuriata* were held in the Campus Martius, and the army was drawn up for defense, since the people were engaged in voting.—Aulus Gellius (117-180 A. D.), "Noctes Atticæ."

XV. THE APPIAN ROAD

FIRST MILITARY ROAD, 312 B. C.

The censorship of Appius Claudius and Caius Plautius, for this year, was remarkable; but the name of Appius has been handed down with more celebrity to posterity, on account of his having made the road (called after him, the Appian), and for having conveyed water into the city. These works he performed alone.—Livy, IX. 33.

XVI. THE OVINIAN LAW

It was determined that the Censors should read out in the senate the names of all the best men from every rank, by curiæ, that those whose names were not thus read out might be driven from their positions and regarded as ignominious.—Festus the Grammarian (2d Century A. D.)

XVII. SUMPTUARY LAWS

On Woman's Dress

Amid the serious concerns of important wars, either scarcely brought to a close or impending, an incident intervened, trivial indeed to be mentioned, but which, through the zeal of the parties concerned, issued in a violent contest. Marcus Fundanius and Lucius Valerius, plebeian tribunes, proposed to the people the repealing of the Oppian law. This law, which had been introduced by Caius Oppias, plebeian tribune, in the consulate of Quintus Fabius and Tiberius Sempronius,

during the heat of the Punic war, enacted that "no woman should possess more than half an ounce of gold, or wear a garment of various colors, or ride in a carriage drawn by horses, in a city, or any town, or any place nearer thereto than one mile; except on occasion of some public religious solemnity." Marcus and Publius Junius Brutus, plebeian tribunes, supported the Oppian law, and declared, that they would never suffer it to be repealed; while many of the nobility stood forth to argue for and against the motion proposed. The Capitol was filled with crowds, who favored or opposed the law; nor could the matrons be kept at home, either by advice or shame, nor even by the commands of their husbands; but beset every street and pass in the city, beseeching the men as they went down to the forum, that in the present flourishing state of the commonwealth, when the private fortune of all was daily increasing, they would suffer the women to have their former ornaments of dress restored. This throng of women increased daily, for they arrived even from the country towns and villlages; and they had at length the boldness to come up to the consuls, prætors, and magistrates, to urge their request. One of the consuls, however, they found especially inexorable—Marcus Porcius Cato, who, in support of the law proposed to be repealed, spoke to this effect:—

"If, Romans, every individual among us had made it a rule to maintain the prerogative and authority of a husband with respect to his own wife, we should have less trouble with the whole sex. But now, our privileges, overpowered at home by female contumacy, are, even here in the forum, spurned and trodden under foot; and because we are unable to withstand each separately, we now dread their collective body. I was accustomed to think it a fabulous and fictitious tale, that, in a certain island, the whole race of males was utterly extirpated by a conspiracy of the women. But the utmost danger may be apprehended equally from either sex, if you suffer cabals, assemblies, and secret consultations to be held; scarcely, indeed, can I determine, in my own mind, whether the act itself, or the precedent that it affords, is of more pernicious tendency. The latter of these more particularly concerns us consuls, and the other magistrates: the former, yourselves, my fellow-citizens. For, whether the measure proposed to your consideration be profitable to the state or not, is to be determined by you, who are about to go to the vote. As to the outrageous behavior of these women, whether it be merely an act of their own, or owing to your instigations, Marcus Fundanius and Lucius Valerius, it unquestionably implies culpable conduct in magistrates. I know not whether it reflects

greater disgrace on you, tribunes, or on the consuls: on you certainly, if you have, on the present occasion, brought these women hither for the purpose of raising tribunitian seditions; on us, if we suffer laws to be imposed on us by a secession of women, as was done formerly by that of the common people. It was not without painful emotions of shame, that I, just now, made my way into the forum through the midst of a band of women. Had I not been restrained by respect for the modesty and dignity of some individuals among them, rather than of the whole number, and been unwilling that they should be seen rebuked by a consul, I should have said to them, 'What sort of practice is this, of running out into public, besetting the streets, and addressing other women's husbands? Could not each have made the same request to her husband at home? Are your blandishments more seducing in public than in private; and with other women's husbands, than with your own? Although if the modesty of matrons confined them within the limits of their own rights, it did not become you, even at home, to concern yourselves about what laws might be passed or repealed here.' Our ancestors thought it not proper that women should perform any, even private business, without a director; but that they should be ever under the control of parents, brothers, or husbands. We, it seems, suffer them, now, to interfere in the management of state affairs, and to introduce themselves into the forum, into general assemblies, and into assemblies of election. For, what are they doing, at this moment, in your streets and lanes? What, but arguing, some in support of the motion of the plebeian tribunes; others, for the repeal of the law? Will you give the reins to their intractable nature, and their uncontrolled passions, and then expect that themselves should set bounds to their licentiousness, when you have failed to do so? This is the smallest of the injunctions laid on them by usage or the laws, all which women bear with impatience: they long for liberty; or rather, to speak the truth, for unbounded freedom in every particular. For what will they not attempt, if they now come off victorious?

"Recollect all the institutions respecting the sex, by which our forefathers restrained their undue freedom, and by which they subjected them to their husbands; and yet, even with the help of all these restrictions, you can scarcely keep them within bounds. If, then, you suffer them to throw these off one by one, to tear them all asunder, and, at last, to be set on an equal footing with yourselves, can you imagine that they will be any longer tolerable by you? The moment they have arrived at an equality with you, they will have become your superiors.

But, forsooth, they only object to any new law being made against them: they mean to deprecate, not justice, but severity. Nay, their wish is, that a law which you have admitted, established by your suffrages, and confirmed by the practice and experience of so many years to be beneficial, should now be repealed; that is, that, by abolishing one law, you should weaken all the rest. No law perfectly suits the convenience of every member of the community: the only consideration is, whether, upon the whole, it be profitable to the greater part. If, because a law proves obnoxious to a private individual, that circumstance should destroy and sweep it away, to what purpose is it for the community to enact general laws, which those, with reference to whom they were passed, could presently repeal? I should like, however, to hear what this important affair is which has induced the matrons thus to run out into public in this excited manner, scarcely restraining from pushing into the forum and the assembly of the people. Is it to solicit that their parents, their husbands, children, and brothers may be ransomed from captivity under Hannibal? By no means: and far be ever from the commonwealth so unfortunate a situation. Yet, even when such was the case, you refused this to their prayers. But it is not duty, nor solicitude for their friends; it is religion that has collected them together. They are about to receive the Idæan Mother, coming out of Phrygia from Pessinus! What motive, that even common decency will allow to be mentioned, is pretended for this female insurrection? Why, say they, that we may shine in gold and purple; that, both on festal and common days, we may ride through the city in our chariots, triumphing over vanquished and abrogated law, after having captured and wrested from you your suffrages; and that there may be no bounds to our expenses and our luxury.

"Often have you heard me complain of the profuse expenses of the women—often of those of the men; and that not only of men in private stations, but of the magistrates: and that the state was endangered by two opposite vices, luxury and avarice; those pests, which have been the ruin of all great empires. These I dread the more, as the circumstances of the commonwealth grow daily more prosperous and happy; as the empire increases; as we have now passed over into Greece and Asia, places abounding with every kind of temptation that can inflame the passions; and as we have begun to handle even royal treasures: so much the more do I fear that these matters will bring us into captivity, rather than we them. Believe me, those statues from Syracuse were brought into this city with hostile effect. I already hear too many

commending and admiring the decorations of Athens and Corinth, and ridiculing the earthen images of our Roman gods that stand on the fronts of their temples. For my part I prefer these gods,—propitious as they are, and I hope will continue to be, if we allow them to remain in their own mansions. In the memory of our fathers, Pyrrhus, by his ambassador Cineas, made trial of the dispositions, not only of our men, but of our women also, by offers of presents: at that time the Oppian law, for restraining female luxury, had not been made; and yet not one woman accepted a present. What, think you, was the reason? That for which our ancestors made no provision by law on this subject: there was no luxury existing which needed to be restrained. As diseases must necessarily be known before their remedies, so passions come into being before the laws which prescribe limits to them. What called forth the Licinian law, restricting estates to five hundred acres, but the unbounded desire for enlarging estates? What the Cincian law, concerning gifts and presents, but that the plebeians had become vassals and tributaries to the senate? It is not therefore in any degree surprising, that no want of the Oppian law, or of any other, to limit the expenses of the women, was felt at that time, when they refused to receive gold and purple that was thrown in their way, and offered to their acceptance. If Cineas were now to go round the city with his presents, he would find numbers of women standing in the public streets to receive them. There are some passions, the causes or motives of which I can no way account for. For that that should not be lawful for you which is permitted to another, may perhaps naturally excite some degree of shame or indignation; yet, when the dress of all is alike, why should any one of you fear, lest she should not be an object of observation? Of all kinds of shame, the worst, surely, is the being ashamed of frugality or of poverty; but the law relieves you with regard to both; since that which you have not it is unlawful or you to possess. This equalization, says the rich matron, is the very thing I cannot endure. Why do not I make a figure, distinguished with gold and purple? Why is the poverty of others concealed under this cover of a law, so that it should be thought that, if the law permitted, they would have such things as they are not now able to procure? Romans, do you wish to excite among your wives an emulation of this sort, that the rich should wish to have what no other can have; and that the poor, lest they should be despised as such, should extend their expenses beyond their means? Be assured, that when a woman once begins to be ashamed of what she ought not to be ashamed of, she will not be

ashamed of what she ought. She who can, will purchase out of her own purse; she who cannot, will ask her husband. Unhappy is the husband, both he who complies with the request, and he who does not; for what he will not give himself, he will see given by another. Now, they openly solicit favors from other men's husbands; and, what is more, solicit a law and votes. From some they obtain them; although, with regard to yourself, your property, or your children, they would be inexorable. So soon as the law shall cease to limit the expenses of your wife, you yourself will never be able to do so. Do not suppose that the matter will hereafter be in the same state in which it was before the law was made on the subject. It is safer that a wicked man should even never be accused, than that he should be acquitted; and luxury, if it had never been meddled with, would be more tolerable than it will be, now, like a wild beast, irritated by having been chained, and then let loose. My opinion is, that the Oppian law ought, on no account, to be repealed. Whatever determination you may come to, I pray all the gods to prosper it."

After him the plebeian tribunes, who had declared their intention of protesting, added a few words to the same purport. Then Lucius Valerius spoke thus in support of the measure which he himself had introduced:—"If private persons only had stood forth to argue for and against the proposition which we have submitted to your consideration, I for my part, thinking enough to have been said on both sides, would have waited in silence for your determination. But since a person of most respectable judgment, the consul, Marcus Porcius, has reprobated our motion, not only by the influence of his opinion, which, had he said nothing, would carry very great weight, but also in a long and careful discourse, it becomes necessary to say a few words in answer. He has spent more words in rebuking the matrons, than in arguing against the measure proposed; and even went so far as to mention a doubt, whether the matrons had committed the conduct which he censured in them spontaneously or at our instigation. I shall defend the measure, not ourselves: for the consul threw out those insinuations against us, rather for argument's sake, than as a serious charge. He has made use of the terms cabal and sedition; and, sometimes, secession of the women: because the matrons had requested of you, in the public streets, that, in this time of peace, when the commonwealth is flourishing and happy, you would repeal a law that was made against them during a war, and in times of distress. I know that these and other similar strong expressions, for the purpose of exaggeration, are easily

found; and, mild as Marcus Cato is in his disposition, yet in his speeches he is not only vehement, but sometimes even austere. What new thing, let me ask, have the matrons done in coming out into public in a body, on an occasion which nearly concerns themselves? Have they never before appeared in public? I will turn over your own Antiquities, and quote them against you. Hear, now, how often they have done the same, and always to the advantage of the public. In the earliest period of our history, even in the reign of Romulus, when the Capitol had been taken by the Sabines, and a pitched battle was fought in the forum, was not the fight stopped by the interposition of the matrons between the two armies? When, after the expulsion of the kings, the legions of the Volscians, under the command of Marcius Coriolanus, were encamped at the fifth stone, did not the matrons turn away that army, which would have overwhelmed this city? Again, when Rome was taken by the Gauls, whence was the city ransomed? Did not the matrons, by unanimous agreement, bring their gold into the public treasury? In the late war, not to go back to remote antiquity, when there was a want of money, did not the funds of the widows supply the treasury? And when even new gods were invited hither to the relief of our distressed affairs, did not the matrons go out in a body to the seashore to receive the Idæan Mother? The cases, you will say, are dissimilar. It is not my purpose to produce similar instances; it is sufficient that I clear these women of having done any thing new. Now, what nobody wondered at their doing in cases which concerned all in common, both men and women, can we wonder at their doing in a case peculiarly affecting themselves? But what have they done? We have proud ears, truly, if, though masters disdain not the prayers of slaves, we are offended at being asked a favor by honorable women.

"I come now to the question in debate, with respect to which the consul's argument is two-fold: for, first, he is displeased at the thought of any law whatever being repealed; and then, particularly, of that law which was made to restrain female luxury. His former argument, in support of the laws in general, appeared highly becoming of a consul; and that on the latter, against luxury, was quite conformable to the rigid strictness of his morals. There is, therefore, a danger lest, unless I shall show what, on each subject, was inconclusive, you may probably be led away by error. For while I acknowledge, that of those laws which are instituted, not for any particular time, but for eternity, on account of their perpetual utility, not one ought to be repealed; unless either experience evince it to be useless, or some state of the public

affairs render it so; I see, at the same time, that those laws which particular seasons have required, are mortal (if I may use the term), and changeable with the times. Those made in peace are generally repealed by war; those made in war, by peace; as in the management of a ship, some implements are useful in good weather, others in bad. As these two kinds are thus distinct in their nature, of which kind does that law appear to be which we now propose to repeal? Is it an ancient law of the kings, coeval with the city itself? Or, what is next to that, was it written in the Twelve Tables by the decemvirs, appointed to form a code of laws? Is it one, without which our ancestors thought that the honor of the female sex could not be preserved? and, therefore, have we also reason to fear, that, together with it, we should repeal the modesty and chastity of our females? Now, is there a man among you who does not know that this is a new law, passed not more than twenty years ago, in the consulate of Quintus Fabius and Tiberius Sempronius? And as, without it, our matrons sustained, for such a number of years, the most virtuous characters, what danger is there of their abandoning themselves to luxury on its being repealed? For, if that law had been passed for the purpose of setting a limit to the passions of the sex, there would be reason to fear lest the repeal of it might operate as an incitement to them. But the real reason of its being passed, the time itself will show. Hannibal was then in Italy, victorious at Cannæ: he already held possession of Tarentum, of Arpi, of Capua, and seemed ready to bring up his army to the city of Rome. Our allies had deserted us. We had neither soldiers to fill up the legions, nor seamen to man the fleet, nor money in the treasury. Slaves, who were to be employed as soldiers, were purchased on condition of their price being paid to the owners at the end of the war. The farmers of the revenues had declared, that they would contract to supply corn and other matters, which the exigencies of the war required, to be paid for at the same time. We gave up our slaves to the oar, in numbers proportioned to our properties, and paid them out of our own incomes. All our gold and silver, in imitation of the example given by the senators, we dedicated to the use of the public. Widows and minors lodged their money in the treasury. It was provided by law that we should not keep in our houses more than a certain sum of wrought gold or silver, or more than a certain sum of coined silver or brass. At such a time as this, were the matrons so eagerly engaged in luxury and dress, that the Oppian law was requisite to repress such practices; when the senate, because the sacrifice of Ceres had been omitted, in consequence of all

the matrons being in mourning, ordered the mourning to end in thirty days? Who does not clearly see, that the poverty and distress of the state, requiring that every private person's money should be converted to the use of the public, enacted that law, with intent that it should remain in force so long only as the cause of enacting the law should remain? For if all the decrees of the senate and orders of the people, which were then made to answer the necessities of the times, are to be of perpetual obligation, why do we refund their money to private persons? Why do we contract for public works for ready money? Why are not slaves brought to serve in the army? Why do not we, private subjects, supply rowers as we did then?

"Shall, then, every other class of people, every individual, feel the improvement in the condition of the state; and shall our wives alone reap none of the fruits of the public peace and tranquillity? Shall we men have the use of purple, wearing the purple-bordered gown in magistracies and priests' offices? Shall our children wear gowns bordered with purple? Shall we allow the privilege of wearing the toga prætexta to the magistrates of the colonies and borough towns, and to the very lowest of them here at Rome, the superintendents of the streets; and not only of wearing such an ornament of distinction while alive, but of being buried with it when dead; and shall we interdict the use of purple to women alone? And when you, the husband, may wear purple in your great coat, will you not suffer your wife to have a purple mantle? Shall your horse be more splendidly caparisoned than your wife is clothed? But with respect to purple, which will be worn out and consumed, I can see an unjust, indeed, but still a sort of reason, for parsimony; but with respect to gold, in which, excepting the price of the workmanship, there is no waste, what objection can there be? It rather serves as a reserve fund or both public and private exigencies, as you have already experienced. He says there will be no emulation between individuals, when no one is possessed of it. But, in truth, it will be a source of grief and indignation to all, when they see those ornaments allowed to the wives of the Latin confederates of which they themselves have been deprived; when they see those riding through the city in their carriages, and decorated with gold and purple, while they are obliged to follow on foot, as if the seat of empire were in the country of the others, not in their own. This would hurt the feelings even of men, and what do you think must be its effect on those of weak women, whom even trifles can disturb? Neither offices of state, nor of the priesthood, nor triumphs, nor badges of distinction, nor military

presents, nor spoils, can fall to their share. Elegance of appearance, and ornaments, and dress, these are the women's badges of distinction; in these they delight and glory; these our ancestors called the women's world. What else do they lay aside when in mourning, except their gold and purple? And what else do they resume when the mourning is over? How do they distinguish themselves on occasion of public thanksgivings and supplications, but by adding unusual splendor of dress? But then (it may be said), if you repeal the Oppian law, should you choose to prohibit any of those particulars which the law at present prohibits, you will not have it in your power; your daughters, wives, and even the sisters of some, will be less under control. The bondage of women is never shaken off without the loss of their friends; and they themselves look with horror on that freedom which is purchased with the condition of the widow or the orphan. Their wish is, that their dress should be under your regulation, not under that of the law; and it ought to be your wish to hold them in control and guardianship, not in bondage; and to prefer the title of father or husband to that of master. The consul just now made use of some invidious terms, calling it a female sedition and secession; because, I suppose, there is danger of their seizing the sacred mount, as formerly the angry plebeians did; or the Aventine. Their feeble nature must submit to whatever you think proper to enjoin; and, the greater power you possess, the more moderate ought you to be in the exercise of your authority."

8. Although all these considerations had been urged against the motion and in its favour, the women next day poured out into public in much greater numbers, and in a body beset the doors of the tribunes who had protested against the measure of their colleagues; nor did they retire until this intervention was withdrawn. There was then no further doubt but that every one of the tribes would vote for the repeal of the law annulled, in the twentieth year after it had been made.—Livy, XXXIV. 1-8.

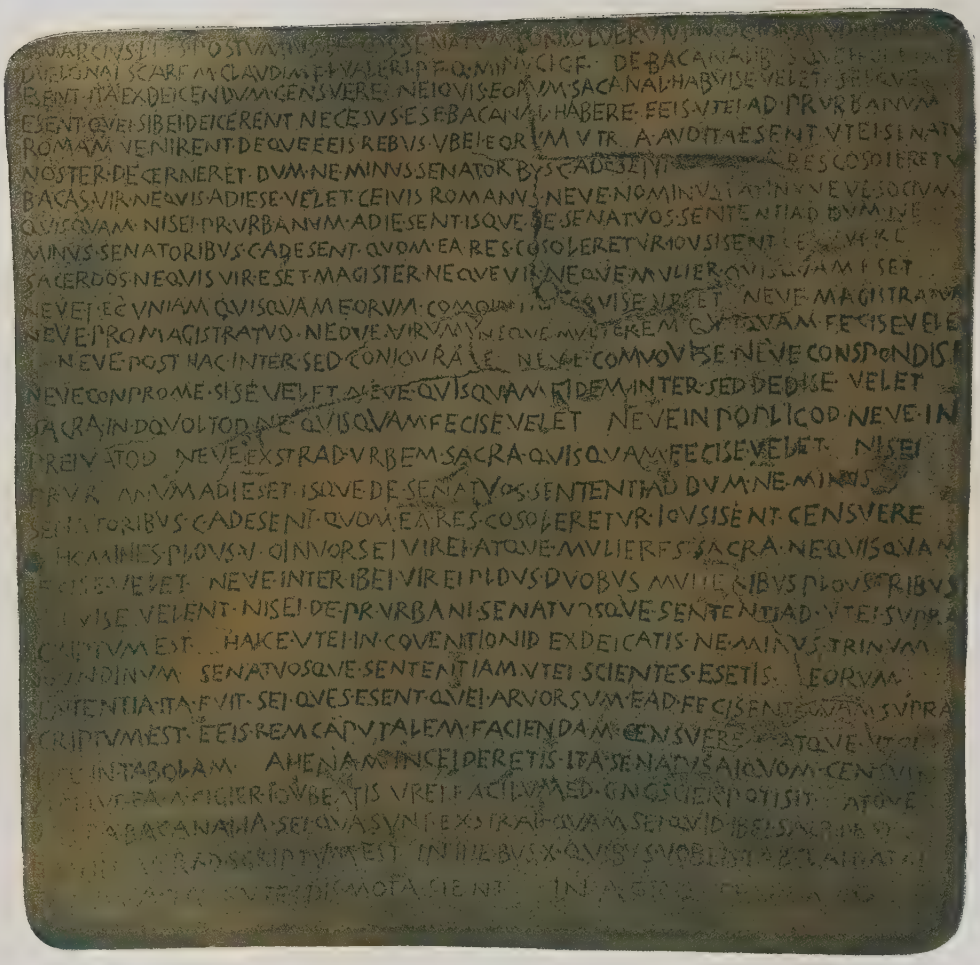
On Food

Among the Romans, frugality and temperance with respect to the food and entertainments was secured not only by private habit and discipline, but also by public opinion and the sanction of many laws. Thus I lately read in the miscellanies of Capito Ateius an old decree of the senate, made in the consulship of C. Fannius and M. Valerius Messala, in which the chief men of the city, who by ancient custom entertained in rotation at the Megalensian games, were made to swear in set form

before the consuls, that they would not expend at any one dinner more than 120 sesterces (equivalent to $4.80) aside from the oil, corn, and wine; nor would use foreign, but domestic wines; nor would expend at an entertainment more than one hundred pounds weight of silver. But after this decree, the Fannian law was passed, which permitted a hundred sesterces to be spent each day, at Roman games, the, plebeian games and the Saturnalia, and certain other days, and on ten days every month, thirty sesterces, but on all other days, ten. The poet Lucilius refers to this law when he says:

Fanni sentussis misellos.
(The beggardly hundred pennies of Fannus.)

In regard to this some of the commentators on Lucilius have erred in supposing that a hundred sesterces was the expenditure fixed for every day by the Fannian law; whereas Fannius, as I have said above, assigned the sum of one hundred sesterces for certain festal days, which he named, but restricted the expenditures of other days to from ten to thirty sesterces a day. Then the Licinian law was proposed, which like the Fennian law, permitted one hundred sesterces to be spent on certain days, and two hundred on wedding days; for other days it allowed for thirty, fixing also for each day a certain weight of dried meat and salted fish; fruit of the earth, tree and vine were allowed freely and without restriction. . . . . Afterwards, when these laws had become ineffective through disuse and old age, and many were rioting in large patrimonies and wasting their estates and property by the enormous expenses of dinners, L. Sulla, the dictator, proposed a law to the people which provided that on the Kalends, Ideas, and Nones, at the games and on certain solemn feast days, they might spend for dinner thirty sesterces, but on all other days not more than three. Beside these laws, we find also the Aemilian law, which prescribed not the expenses of dinners, but the kind and quality of food. Then the Antian law decred besides the sum of money, this also, that he who was a magistrate or a candidate for a magistracy, should visit only certain persons. Finally, the Julian law was promulgated under Cæsar Augustus, by which two hundred sesterces were made the limit for holy feast days; for the Kalends, Ides, and Nones, and certain other feast days, three hundred; for wedding days and banquets that followed, a thousand. Capito Ateius says there was also an edict, whether of the divine Augustus or of Tiberius Cæsar, I do not remember, by which the expenditures for feasts on various solemn days was extended from three hundred to two thousand sester-



ces, that the increasing tide of luxury might be held at least within these bounds.—Aulus Gellius, "Noctes Atticæ," II. 24.

XVIII. SENATUS CONSULTUM DE BACCHANALIBUS.
186 B. C.

8. The following year diverted Spurius Postumius Albinus and Quintus Marcius Philippus, from the care of armies, and wars, and provinces, to the punishing of an intestine conspiracy. The prætors cast lots for their provinces, Titus Mænius obtained the city jurisdiction; Marcus Licinius Lucullus, that between citizens and foreigners; Caius Aurelius Scaurus, Sardinia; Publius Cornelius Sulla, Sicily; Lucius Quintius Crispinus, Hither Spain; Caius Calpurninus Piso, Farther Spain. The making inquisition concerning clandestine meetings was decreed to both the consuls. A Greek of mean condition came, first, into Etruria, not with one of the many trades which his nation, of all others the most skilful in the cultivation of the mind and body, has introduced among us, but a low operator in sacrifices, and a soothsayer; nor was he one who, by open religious rites, and by publicly professing his calling and teaching, imbued the minds of his followers with terror, but a priest of secret and nocturnal rites. These mysterious rites were, at first, imparted to a few, but afterwards communicated to great numbers, both men and women. To their religious performances were added the pleasures of wine and feasting, to allure a greater number of proselytes. When wine, lascivious discourse, night, and the intercourse of the sexes had extinguished every sentiment of modesty, then debaucheries of every kind began to be practised, as every person found at hand that sort of enjoyment to which he was disposed by the passion predominant in his nature. Nor were they confined to one species of vice—the promiscuous intercourse of free-born men and women; but from this store-house of villany proceeded false witnesses, counterfeit seals, false evidences, and pretended discoveries. From the same place, too, proceeded poison and secret murders, so that in some cases, not even the bodies could be found for burial. Many of their audacious deeds were brought about by treachery, but most of them by force; it served to conceal the violence, that, on account of the loud shouting, and the noise of drums and cymbals, none of the cries uttered by the persons suffering violence or murder could be heard abroad.

9. The infection of this mischief, like that from the contagion of

disease, spread from Etruria to Rome; where, the size of the city affording greater room for such evils, and more means of concealment, cloaked it at first; but information of it was at length brought to the consul, Postumius, principally in the following manner. Publius Ælbutius, whose father had held equestrian rank in the army, was left an orphan, and his guardians dying, he was educated under the eye of his mother Duronia, and his stepfather Titus Sempronius Rutilus. Duronia was entirely devoted to her husband; and Sempronius, having managed the guardianship in such a manner that he could not give an account of the property, wished that his ward should be either made away with, or bound to compliance with his will by some strong tie. The Bacchanalian rites were the only way to effect the ruin of the youth. His mother told him, that, "during his sickness, she had made a vow for him, that if he should recover, she would initiate him among the Bacchanalians; that being, through the kindness of the gods, bound by this vow, she wished now to fulfill it; that it was necessary he should preserve chastity for ten days, and on the tenth, after he should have supped and washed himself, she would conduct him into the place of worship." There was a freedwoman called Hispala Fecenia, a noted courtesan, but deserving of a better lot than the mode of life to which she had been accustomed when very young, and a slave, and by which she had maintained herself since her manumission. As they lived in the same neighbourhood, an intimacy subsisted between her and Ælbutius, which was far from being injurious to either to the young man's character or property; for he had been loved and wooed by her unsolicited; and as his friends supplied his wants illiberally, he was supported by the generosity of this woman; nay, to such a length did she go under the influence of her affection, that, on the death of her patron, because she was under the protection of no one, having petitioned the tribunes and prætors for a guardian, when she was making her will, she constituted Ælbutius her sole heir.

10. As such pledges of mutual love subsisted, and as neither kept any thing secret from the other, the young man, jokingly, bid her not be surprised if he separated himself from her for a few nights; as, "on account of a religious duty, to discharge a vow made for his health, he intended to be initiated among the Bacchanalians." On hearing this, the woman, greatly alarmed, cried out, "May the gods will more favourably!" affirming that "it would be better, both for him and her, to lose their lives than that he should do such a thing:" she then imprecated curses, vengence, and destruction, on the head of those who advised him to such a step. The young man, surprised both at her expressions and

at the violence of her alarm, bid her refrain from curses, for "it was his mother who ordered him to do so, with the approbation of his stepfather." "Then," said she, "your stepfather (for perhaps it is not allowable to censure your mother) is in haste to destroy, by that act, your chastity, your character, your hopes, and your life." To him, now surprised by such language, and inquiring what was the matter, she said (after imploring the favour and pardon of the gods and goddesses, if, compelled by her regard for him, she disclosed what ought not to be revealed,) that "when in service, she had gone into that place of worship, as an attendant on her mistress; but that, since she had obtained her liberty, she had never once gone near it: that she knew it to be the receptacle of all kinds of debaucheries; that it was well known that, for two years past, no one older than twenty had been initiated there. When any person was introduced he was delivered as a victim to the priests, who led him away to a place resounding with shouts, the sound of music, and the beating of cymbals and drums, lest his cries, while suffering violation, should be heard abroad." She then entreated and besought him to put an end to that matter in some way or other; and not to plunge himself into a situation, where he must first suffer, and afterwards commit, every thing that was abominable. Nor did she quit him until the young man gave her his promise to keep himself clear of those rites.

11. When he came home, and his mother made mention of such things pertaining to the ceremony as were to be performed on that day. and on the several following days, he told her that he would not perform any of them, nor did he intend to be initiated. His stepfather was present at this discourse. Immediately the woman observed, that "he could not deprive himself of the company of Hispala for ten nights; that he was so fascinated by the caresses and baneful influence of that serpent, that he retained no respect for his mother or stepfather, or even the gods themselves." His mother on one side and his stepfather on the other loading him with reproaches, drove him out of the house, assisted by four slaves. The youth on this repaired to his aunt Ælbutia, told her the reason of his being turned out by his mother, and the next day, by her advice, gave information of the affair to the consul Postumius, without any witnesses of the interview. The consul dismissed him, with an order to come again on the third day following. In the mean time, he inquired of his mother-in-law Sulpicia, a woman of respectable character, "whether she knew an old matron called Ælbutia, who lived on the Aventine hill?" When she answered that "she knew her well, and that

Æbutia was a woman of virtue, and of the ancient purity of morals; he said that he required a conference with her, and that a messenger should be sent for her to come. Æbutia, on receiving the message, came to Sulpicia's house, and the consul, soon after, coming in, as if by accident, introduced a conversation about Æbutius, her brother's son. The tears of the woman burst forth, and she began to lament the unhappy lot of the youth: "who, after being robbed of his property by persons whom it least of all became, was then residing with her, being driven out of doors by his mother, because, being a good youth (may the gods be propitious to him,) he refused to be initiated in ceremonies devoted to lewdness, as report goes.

12. The consul, thinking that he had made sufficient inquiries concerning Æbutius, and that his testamony was unquestionable, having dismissed Æbutia, requested his mother-in-law to send again to the Aventine, and bring from that quarter Hispala, a freedwoman, not unknown in that neighbourhood; for there were some queries which he wished to make of her. Hispala being alarmed because she was sent for by a woman of such high rank and respectable character, and being ignorant of the cause, after that she saw the lictors in the porch, the multitude attending on the consul and the consul himself, was very near fainting. The consul led her into a retired part of the house, and, in the presence of his mother-in-law, told her, that "she need not be uneasy, if she could resolve to speak the truth. She might receive a promise of protection either from Sulpicia, a matron of such dignified character, or from himself. That she ought to tell him, what was accustomed to be done at the Bacchanalia, in the nocturnal orgies in the grove of Stimula. When the woman heard this, such terror and trembling of all her limbs seized her, that for a long time she was unable to speak; but recovering, at length she said, that" when she was very young, and a slave, she had been initiated, together with her mistress; but for several years past, since she had obtained her liberty, she knew nothing of what was done there." The consul commanded her so far, as not having denied that she was initiated, but charged her to explain all the rest with the same sincerity; and told her, affirming that she knew nothing further, that "there would not be the same tenderness or pardon extended to her, if she should be convicted by another person, and one who had made the whole from her, and had given him a full account of it." 13. The woman, now thinking without a doubt that it must certainly be Æbutius who had discovered the secret, threw herself at Sulpicia's feet, and at first began to beseech her, "not to let the private conversation of a freed-

woman with her lover be turned not only into a serious business, but even capital charge;" declaring that "she had spoken of such things merely to frighten him, and not because she knew any thing of the kind." On this Postumius, growing angry, said, "she seemed not to know she was speaking in the house of a most respectable matron, and to a consul." Sulpicia raised her, terrified, from the ground, and while she encouraged her to speak out, at the same time pacified her son-in-law's anger. At length she took courage, and, having censured severely the perfidy of Æbutius, because he had made such a return for the extraordinary kindness shown to him in that very instance, she declared that "she stood in great dread of the gods, whose secret mysteries she was to divulge; and in much greater dread of the men implicated, who would tear her asunder with their hands if she became an informer. Therefore, she entreated this favour of Sulpicia, and likewise the consul, that they would send her away to some place out of Italy, where she might pass the remainder of her life in safety." The consul desired her to be of good spirits, and said that it should be his care that she might live securely in Rome.

Hispala then gave a full account of the origin of the mysteries. "At first," she said, "those rites were performed by women. No man used to be admitted. They had three stated days in the year on which persons were initiated among the Bacchanalians, in the day-time. The matrons used to be appointed priestesses, in rotation. Paculla Minia, a Campanian, when priestess, made an alteration in every particular, as if by the direction of the gods. For she first introduced men, who were her own sons, Minucius and Herrenius, both surnamed Cerrinius; changed the time of celebration, from day to night; and, instead of three days in the year, appointed five days of initiation, in each month. From the time that the rites were thus made common, and men were intermixed with women, and the licentious freedom of the night was added, there was nothing wicked, nothing flagitious, that had not been practised among them. There were more frequent pollution of men, with each other, than with women. If any were less patient in submitting to dishonour, or more averse to the commission of vice, they were sacrificed as victims. To think nothing unlawful, was the grand maxim of their religion. The men, as if bereft of reason, uttered predictions, with frantic contortions of their bodies; the women, in the habit of Bacchantes, with their hair dishevelled, and carrying blazing torches, ran down to the Tiber; where, dipping their torches in the water, they drew them up again with the flame unextinguished, being composed of native sul-

phur and charcoal. They said that those men were carried off by the gods, whom the machines laid hold of and dragged from their view into secret caves. These were such as refused to take the oath of the society, or to associate in their crimes, or to submit to defilement. This number was exceedingly great now, almost a second state in themselves, and among them were many men and women of noble families. During the last two years it had been a rule, that no person above the age of twenty should be initiated; for they sought for people of such age as made them more liable to suffer deception and personal abuse." 14. When she had completed her information, she again fell at the consul's knees, and repeated the same entreaties, that he might send her out of the country. The consul requests his mother-in-law to clear some part of the house, into which Hispala might remove; accordingly, an apartment was assigned her in the upper part of it, of which the stairs, opening into the street, were stopped up, and the entrance made from the inner court. Thither all Fecenia's effects were immediately removed and her domestics sent for. Ævutius, also, was ordered to remove to the house of one of the consul's clients.

When both the informers were by these means in his power, Postumius represented the affair to the senate, laying before them the whole circumstance, in due order; the information given to him at first, and the discoveries gained by his inquiries afterwards. Great consternation seized on the senators; not only on the public account, lest such conspiracies and nightly meetings might be productive of secret treachery and mischief, but, likewise, on account of their own particular families, lest some of their relations might be involved in this infamous affair. The senate voted, however, that thanks should be given to the consul because he had investigated the matter with singular diligence, and without exciting any alarm. They then commit to the consuls the holding an inquiry, out of the common course, concerning the Bacchanals and their nocturnal orgies. They order them to take care that the informers, Ævutius and Fecenia, might suffer no injury on that account; and to invite other informers in the matter, by offering rewards. They ordered that the officials in those rites, whether men or women, should be sought for, not only at Rome, but also throughout all the market towns and places of assembly, and be delivered over to the power of the consuls; and also that proclamation should be made in the city of Rome, and published through all Italy, that "no persons initiated in the Bacchanalian rites should presume to come together or assemble on account of those rites, or to perform any such kind of worship;" and above all,

that search should be made for those who had assembled or conspired for personal abuse, or for any other flagitious practices. The senate passed these decrees. The consuls directed the curule ædiles to make strict inquiry after all the priests of those mysteries, and to keep such as they could apprehend in custody until their trial; they at the same time charged the plebeian ædiles to take care that no religious ceremonies should be performed in private. To the capital triumvirs the task was assigned to post watches in proper places of the city, and to use vigilance in preventing any meetings by night. In order likewise to guard against fires, five assistants were joined to the triumvirs, so that each might have the charge of the buildings in his own separate district, on this side the Tiber.

15. After despatching these officers to their several employments, the consuls mounted the rostrum; and, having summoned an assembly of the people, one of the consuls, when he had finished the solemn form of prayer which the magistrates are accustomed to pronounce before they address the people, proceeded thus: "Romans, to no former assembly was this solemn supplication to the gods more suitable or even more necessary: as it serves to remind you, that these are the deities whom your forefathers pointed out as the objects of your worship, veneration, and prayers: and not those which infatuated men's minds with corrupt and foreign modes of religion, and drove them, as if goaded by the furies, to every lust and every vice. I am at a loss to know what I should conceal, or how far I ought to speak out; for I dread lest, if I leave you ignorant of any particular, I should give room for carelessness, or if I disclose the whole, that I should too much awaken your fears. Whatever I shall say, be assured that it is less than the magnitude and atrociousness of the affair would justify: exertions will be used by us that it may be sufficient to set us properly on our guard. That the Bacchanalian rites have subsisted for some time past in every country in Italy, and are at present performed in many parts of this city also, I am sure you must have been informed, not only by report, but by the nightly noises and horrid yells that resound through the whole city; but still you are ignorant of the nature of that business. Part of you think it is some kind of worship of the gods; others, some excusable sport and amusement, and that, whatever it may be, it concerns but a few. As regards the number, if I tell you that they are many thousands, that you would be immediately terrified to excess is a necessary consequence; unless I further acquaint you who and what sort of persons they are. First, then, a great part of them are women, and this was the

source of the evil; the rest are males, but nearly resembling women; actors and pathics in the vilest lewdness; night revellers, driven frantic by wine, noise of instruments, and clamours. The conspiracy, as yet, has no strength; but it has abundant means of acquiring strength, for they are becoming more numerous every day. Your ancestors would not allow that you should ever assemble casually, without some good reason; that is, either when the standard was erected on the Janiculum, and the army led out on occasion of elections; or when the tribunes proclaimed a meeting of the commons, or some of the magistrates summoned you to it. And they judged it necessary, that whatever a multitude was, there should be a lawful governor of that multitude present. Of what kind do you suppose are the meetings of these people? In the first place, held in the night, and in the next, composed promiscuously of men and women. If you knew at what ages the males are initiated, you would feel not only pity but also shame for them. Romans, can you think youths initiated, under such oaths as theirs, are fit to be made soldiers? That arms should be intrusted with wretches brought out of that temple of obscenity? Shall these, contaminated with their own foul debaucheries and those of others, be champions for the chastity of your wives and children?

16. "But the mischief were less, if they were only effeminated by their practices; of that the disgrace would chiefly affect themselves; if they refrained their hands from outrage, and their thoughts from fraud. But never was there in the state an evil of so great a magnitude, or one that extended to so many persons or so many acts of wickedness. Whatever deeds of villany have, during late years, been committed through lust; whatever, through fraud; whatever, through violence; they have all, be assured, proceeded from that association alone. They have not yet perpetuated all the crimes for which they combined. The impious assembly at present confines itself to outrages on private citizens; because it has not yet acquired force sufficient to crush the commonwealth; but the evil increases and spreads daily; it is already too great for the private ranks of life to contain it, and aims its views at the body of the state. Unless you take timely precautions, Romans, their nightly assembly may become as large as this, held in open day, and legally summoned by a consul. Now they one by one dread you collected together in the assembly; presently, when you shall have separated and retired to your several dwellings, in town and country, they will again come together, and will hold a consultation on the means of their own safety, and, at the same time, of your destruction. Thus united,

they will cause terror to every one of you. Each of you, therefore, ought to pray that his kindred may have behaved with wisdom and prudence; and if lust, if madness, has dragged any of them into that abyss, to consider such a person as the relation of those with whom he has conspired for every disgraceful and reckless act, and not as one of your own. I am not secure, lest some, even of yourselves, may have erred through mistake; for nothing is more deceptive in appearance than false religion. When the authority of the gods is held out as a pretext to cover vice, fear enters our minds, lest, in punishing the crimes of men, we may violate some divine right connected therewith. Numberless decisions of the pontiffs, decrees of the senate, and even answers of the haruspices, free you from religious scruples of this character. How often in the ages of our fathers was it given in charge to the magistrates, to prohibit the performance of any foreign religious rites; to banish strolling sacrificers and soothsayers from the forum, the circus, and the city; to search for, and burn, books of divination; and to abolish every mode of sacrificing that was not conformable to the Roman practice! For they, completely versed in every divine and human law, maintained, that nothing tended so strongly to the subversion of religion as sacrifice, when we offered it not after the institutions of our forefathers, but after foreign customs. Thus much I thought necessary to mention to you beforehand, that no vain scruple might disturb your minds when you should see us demolishing the places resorted to by the Bacchanalians, and dispersing their impious assemblies. We shall do all these things with the favour and approbation of the gods; who, because they were indignant that their divinity was dishonoured by those people's lusts and crimes, have drawn forth their proceedings from hidden darkness into the open light; and who have directed them to be exposed, not that they may escape with impunity, but in order that they may be punished and suppressed. The senate have committed to me and my colleague, an inquisition extraordinary concerning that affair. What is requisite to be done by ourselves, in person, we will do with energy. The charge of posting watches through the city, during the night, we have committed to the inferior magistrates; and, for your parts, it is incumbent on you to execute vigorously whatever duties are assigned you, and in the several places where each will be placed, to perform whatever orders you shall receive, and to use your best endeavors that no danger or tumult may arise from the treachery of the party involved in the guilt."

17. They then ordered the decrees of the senate to be read, and published a reward for any discoverer who should bring any of the

guilty before them, or give information against any of the absent, adding, that "if any person accused should fly, they would limit a certain day upon which, if he did not answer when summoned, he would be condemned in his absence; and if any one should be charged who was out of Italy, they would allow him a longer time, if he should wish to come and make his defence." They then issued an edict, that "no person whatever should presume to buy or sell any thing for the purpose of leaving the country; or to receive or conceal, or by any means aid the fugitives." On the assembly being dismissed, great terror spread throughout the city; nor was it confined merely within the walls, or to the Roman territory, for every where throughout the whole of Italy alarm began to be felt, when the letters from the guest-friends were received, concerning the decree of the senate, and what passed in the assembly, and the edict of the cansuls. During the night, which succeeded the day in which the affair was made public, great numbers, attempting to fly, were seized, and brought back by the triumvirs, who had posted guards at all gates; and informations were lodged against many, some of whom, both men and women, put themselves to death. Above seven thousand men and women are said to have taken the oath of the association. But it appeared that the heads of the conspiracy were the two Catinii, Marcus and Caius, Roman plebeians; Lucius Opiturnius, a Faliscian; and Minius Cerrinius, a Campanian: that from these proceeded all their criminal practices, and that these were the chief priests and founders of the sect. Care was taken that they should be apprehended as soon as possible. They were brought before the consuls, and, confessing their guilt, caused no delay to the ends of justice.

18. But so great were the numbers that fled from the city, that because the lawsuits and property of many persons were going to ruin, the prætors, Titus Mænius and Marcus Licinius, were obliged, under the direction of the senate, to adjourn their courts for thirty days, until the inquiries should be finished by the consuls. The same deserted state of the law-courts, since the persons, against whom charges were brought, did not appear to answer, nor could be found in Rome, necessitated the consuls to make a circuit of the country towns, and there to make their inquisitions and hold the trails. Those who, as it appeared, has been only initiated, and had made after the priest, and in the most solemn form, the prescribed imprecations, in which the accursed conspiracy for the perpetration of every crime and lust was contained, but who had not themselves committed, or compelled others to commit, any of those acts to which they were bound by the oath—all such they left in prison.

But those who had forcibly committed personal defilements or murders, or were stained with the guilt of false evidence, counterfeit seals, forged wills, or other frauds, all these they punished with death. A greater number were executed than thrown into prison; indeed, the multitude of men and women who suffered in both ways, was very considerable. The consuls delivered the women, who were condemned, to their relations, or to those under whose guardianship they were, that they might inflict the punishment in private; if there did not appear any proper person of the kind to execute the sentence, the punishment was inflicted in public. A charge was then given to demolish all the places where the Bacchanalians had held their meetings; first, in Rome, and then throughout all Italy; excepting those wherin should be found some ancient altar, or consecrated statue. With regard to the future, the senate passed a decree, "that no Bacchanalian rites should be celebrated in Rome or in Italy:" and ordering that, "in case any person should believe some such kind of worship incumbent on him, and necessary; and that he could not, without offence to religion, and incurring guilt, omit it, he should represent this to the city prætor, and the prætor should lay the business before the senate. If permission were granted by the senate, when not less than one hundred members were present, then he might perform those rites, provided that no more than five persons should be present at the sacrifice, and that they should have no common stock of money, nor any president of the ceremonies, nor priest."

19. Another decree connected with this was then made, on a motion of the consul, Quintus Marcius, that "the business respecting the persons who had served the consuls as informers should be proposed to the senate in its original form, when Spurius Postumius should have finished his inquiries, and returned to Rome." They voted that Minius Cerrinus, the Campanian, should be sent to Ardea, to be kept in custody there; and that a caution should be given to the magistrates of that city, to guard him with more than ordinary care, so as to prevent not only his escaping, but his having an opportunity of committing suicide. Spurius Postumius some time after came to Rome, and on his proposing the question, concerning the reward to be given to Publius Ælutius and Hispala Fecenia, because the Bacchanalian ceremonies were discovered by their exertions, the senate passed a vote, that "the city quæstors should give to each of them, out of the public treasury, one hundred thousand *asses;* and that the consuls should desire the plebeian tribunes to propose to the commons as soon as convenient, that the campaigns of Publius Ælutius should be considered as served, that he

should not become a soldier against his wishes, nor should any censor assign him a horse at the public charge." They voted also, that "Hispala Fecenia should enjoy the privileges of alienating her property by gift or deed; of marrying out of her rank, and of choosing a guardian, as if a husband had coferred them by will; that she should be at liberty to wed a man of honourable birth, and that there should be no disgrace or ignominy to him who should marry her; and that the consuls and prætors then in office, and their successors, should take care that no injury should be offered to that woman, and that she might live in safety. That the senate wished, and thought proper, that all these things should be so ordered."—All these particulars were proposed to the commons, and executed, according to the vote of the senate; and full permission was given to the consuls to determine respecting the impunity and rewards of the other informers.—Livy, XXXIX. 8-19.

The Decree

Quintus Marcius the son of Lucius, and Spurius Postumius, consulted the senate on the Nones of October (7th), at the temple of the Bellonae. Marcus Claudius, son of Marcus, Lucius Valerius, son of Publius, and Quintus Minucius, son of Gaius, were the committee for drawing up the report.

Regarding the Bacchanalia it was resolved to give the following directions to those who are in alliance with us.

No one of them is to possess a place where the festivals of Bacchus are celebrated: if there are any who claim that it is necessary for them to have such a place, they are to come to Rome to the praetor urbanus, and the senate is to decide on those matters, when their claims have been heard, provided that not less than 100 senators are present when the affair is discussed. No man is to be a Bacchantian, neither a Roman citizen, nor one of the Latin name, nor any of our allies unless they come to the praetor urbanus, and he in accordance with the opinion of the senate expressed when not less than 100 senators are present at the discussion, shall have given leave. Carried.

No man is to be a priest; no one, either man or woman, is to be an officer (to manage the temporal affairs of the organization); nor is anyone of them to have charge of a common treasury; no one shall appoint either man or woman to be master or to act as master; henceforth they shall not form conspiracies among themselves, stir up any disorder, make mutual promises or agreements, or interchange pledges; no one shall observe the sacred rites either in public or private or outside the

city, unless he comes to the prætor urbanus, and he, in accordance with the opinion of the senate, expressed when no less that 100 senators are present at the discussion, shall have given leave. Carried.

No one in a company of more than five persons altogether, men and women, shall observe the sacred rites, nor in that company shall there be present more than two men or three women, unless in accordance with the opinion of the prætor urbanus and the senate as written above.

See that you declare it in the assembly (contio) for not less than three market days; that you may know the opinion of the senate this was their judgment: if there are any who have acted contrary to what was written above, they have decided that a proceeding for a capital offense should be instituted against them; the senate has justly decreed that you should inscribe this on a brazen tablet, and that you should order it to be placed where it can be easiest read; see to it that the revelries of Bacchus, if there be any, except in case there be concerned in the matter something sacred, as was written above, be disbanded within ten days after this letter shall be delivered to you.

In the Teuranian field.

TRANSLATED BY NINA E. WESTON.

XIX. THE GRACCHI

As the Romans conquered the Italian tribes, one after another, in war, they seized part of the lands and founded towns there, or placed colonies of their own in those already established, and used them as garrisons. They allotted the cultivated part of the land obtained through war, to settlers, or rented or sold it. Since they had not time to assign the part which lay waste by the war, and this was usually the greater portion, they issued a proclamation that for the time being any who cared to work it could do so for a share of the annual produce, a tenth part of the grain and a fifth of the fruit. A part of the animals, both of the oxen and sheep was exacted from those keeping herds. They did this to increase the Italian peoples, considered the hardest working of races, in order to have plenty of supporters at home. But the very opposite result followed; for the wealthy, getting hold of most of the unassigned lands, and being encouraged through the length of time elapsed to think that they would never be ousted, and adding, part by purchase and part by violence, the little farms of their poor neighbors to their possessions, came to work great dis-

tricts instead of one estate, using to this end slaves as laborers and herders, because free laborers might be drafted from agriculture into the army. The mere possession of slaves brought them great profit through the number of their children, which increased because they were absolved from service in the wars. Thus the powerful citizens became immensely wealthy and the slave class all over the country multiplied, while the Italian race decreased in numbers and vigor, held down as they were by poverty, taxes, and military service. If they had any rest from these burdens, they wasted their time in idleness, because the land was in the hands of the wealthy, who used slaves instead of free laborers.

Because of these facts the people began to fear that they should no longer have enough Italian allies, and that the state itself would be imperiled by such great numbers of slaves. Not seeing any cure for the trouble, as it was not practicable nor entirely fair to dispossess men of their possessions so long occupied, including their own trees, buildings and improvements, a decree was at one time got through by the efforts of the tribunes that no one should hold more than five hundred jugera (about three hundred acres), or graze more than a hundred cattle or five hundred sheep upon it. To make sure the law was observed, it was provided, also, that there should be a stated number of freemen employed on the lands, whose duty it should be to watch and report what took place. Those holding lands under the law were compelled to make oath to obey it, and penalties were provided against breaking it. It was thought that the surplus land would soon be subdivided amongst the poor in small lots, but there was not the slightest respect shown for the law or the oaths. The few that seemed to give some heed to them fraudulently made over their lands to their relatives, but most paid no attention to the law whatever.

At last Tiberius Sempronius Gracchus, an eminent man, ambitious for honor, a forceful orator, and for these causes well known to everybody, made an eloquent speech, while tribune, on the subject of the Italian race, deploring that a people so warlike, and related in descent to the Romans, were gradually sinking into pauperism and decreasing in numbers, with no hope of betterment. He denounced the swarm of slaves as useless in war and faithless to their masters, and instanced the recent disaster brought upon the owners in Sicily by their slaves, where the requirements of agriculture had greatly increased their number. He called to mind, also, the war waged by the Romans against the slaves, a war neither trivial nor short, but long drawn out

and filled with misfortunes and perils. After this address he once more brought forward the law providing that no one should hold more than five hundred jugera of the public land, but he made this addition to the previous law, that the sons of the present occupants might each hold half as large an allotment and that the surplus land should be divided among the poor by triumvirs, that were to be changed yearly.

This greatly vexed the wealthy, because, on account of the triumviers, they could no longer pass by the law as they had done before; nor could they purchase the lands allotted to others, because Gracchus had provided against this by prohibiting sales. They gathered into groups, complaining and charging the poor with seizing the results of their cultivation, their vineyards, and their houses. Some said they had paid their neighbors the price of the land; were they to lose their money as well as the land? Others declared that the graves of their fathers were in the ground that had been assigned to them in the partition of their family estate. Others stated that their wives' dowries had been spent on the land or that it had been given to their own daughters as such. Loaners of money could show advances made on this security. All sorts of complaints and denunciations were heard at the same time. On the other hand rose the wails of the poor, crying that they had been reduced from plenty to the lowest pauperism and from that to enforced lack of offspring, because they could not support children. They enumerated the services they had rendered in war, by which this very land had been obtained, and were indignant at being despoiled of their part of the public property. They upbraided the wealthy for using slaves, who were always faithless and sulky, and for that cause useless in war, in the place of freemen, citizens and men at arms. While these classes were complaining and reproaching each other, a vast multitude, consisting of colonists or dwellers in the free cities, or others in some way interested in the lands and with similar fears, thronged into town and sided with their respective parties. Angry at each other, they gathered in riotous crowds, made bold by numbers, and, waiting for the new law, tried in every way, some to obstruct its passage and others to carry it. Party spirit in addition to individual interest stimulated both sides in the preparation against each other which they were making for the voting day.

What Gracchus sought in framing the law was the increase, not of wealth, but of serviceable population. He was highly enthused with the usefulness of the proposal and, believing that nothing more beneficial or desirable could happen to Italy, he attached no weight to

the difficulties involved. When the time came for voting he brought forward at some length many other arguments, asking whether it was not right to allot among the common people what belonged to them in common, whether a citizen did not always deserve more concern than a slave, whether a man that fought in the army was not more serviceable than one that did not, and whether one that had an interest in the country was not the surer to be faithful to the public weal. He did not tarry long on this contrast between freemen and slaves, which he thought debasing, but plunged at once into an outline of their hopes and fears for the state, saying that the Romans had obtained most of their lands by conquest and that they had the opportunities of acquiring the rest of the inhabitable world, but now the question most doubtful of all was whether, with plenty of warlike men, they should conquer the rest, or whether, through their internal dissensions and weaknesses, their foes should deprive them of what they already had. After enlarging upon the honor and wealth on one side and the peril and need of apprehension on the other, he warned the rich to reflect, and said that for the accomplishment of such hopes they should be willing to give this very land as a gift, if need be, to men that would bring up offspring, and not by wrangling over trivial matters, lose sight of the more important ones—especially since they were getting full pay for the labor they had expended in the clear title to five hundred jugera of land, in a high state of cultivation, to each of them without cost, and half as much again for each son to those that had them. After saying much else in the same strain and getting the poor aroused, as well as those that were influenced by reason rather than the hope of profit, he commanded the clerk to read the measure proposed.

Another tribune, Marcus Octavius, who had been prevailed on by those holding land to interpose his veto (for among the Romans the veto of the tribune always had absolute authority), ordered the clerk to be silent. Upon this Gracchus rebuked him sternly and adjourned the meeting to the next day. This time he placed quite a force around, as if to coerce Octavius against his will, and with threats bade the clerk read the measure proposed to the assemblage. He began reading, but upon Octavius again interposing his veto, stopped. Then the tribunes commenced quarreling with each other, and something of an uproar broke forth from among the people. The influential citizens begged the tribunes to lay their disagreements before the senate for arbitration. Gracchus acted upon this advice, thinking the measure to be agreeable to all patriotic people, and hurried to the senate. As

he found only a few supporters there, and was reproached by the wealthy, he rushed back to the forum and announced that he would take a vote in the assembly on the following day upon the law, and also upon the tenor of office of Octavius, to find out whether a tribune (of the plebs) acting contrary to the welfare of the plebs could continue to retain his magistracy.

So he did, and when Octavius, not at all intimidated, again put in his veto, Gracchus had the pebbles distributed to vote on him first. As the first tribe voted to impeach Octavius, Gracchus, turning to him, pleaded with him to withdraw his veto. As he would not do so, the votes of the other tribes were taken. At that time there were thirty-five tribes. The seventeen voting first wrathfully approved the measure. If the eighteenth should do likewise it would constitute a majority. Once more in full view of the people Gracchus passionately begged Octavius, in his great jeopardy, not to obstruct this most devout work, so beneficial to all Italy, and not to dash down the hopes so deeply grounded among the people, whose wishes he ought, as a tribune, the rather to share in, and not to run the risk of losing his office by public impeachment. Upon saying this he called the gods to witness that he did not of his own accord do any injury to his colleague, but, as Octavius was still firm, he continued taking the vote, and Octavius was thereupon reduced to the rank of private citizen and stole away unnoticed.

Quintus Mummius was elected tribune in his stead and the agrarian law was passed. The three men first appointed to allot the land were Gracchus himself, the framer of the measure, his brother of the same name, and his father-in-law, Appius Claudius, for the people were still afraid that the law might not be executed unless Gracchus, with all his family, should be placed at the helm. Gracchus became enormously popular on account of the law and was attended home by the mass of the people, as if he were the founder, not merely of one city or people, but of all the states of Italy. After this the victors returned to the fields whence they had journeyed to conduct the affair, while the defeated ones stayed in the city and went over the subject with one another, feeling incensed and declaring that when Gracchus became a private citizen he would be made sorry that he had dishonored the sacred and inviolable office of tribune and had opened the way to such a flood of strife in Italy.

At the coming of summer the announcement of the election of tribunes was made, and as the day for voting drew near, it was clear

that the wealthy were vigorously aiding the election of those most opposed to Gracchus. Fearing that misfortune would come upon him if he should not be re-elected for the next year, Gracchus sent to his friends in the fields to attend the assembly, but as their time was taken up with the harvest he was forced, when the day fixed for the voting was at hand, to depend upon the plebeians of the city. So he went about canvassing each one to elect him tribune for the next year, on account of the jeopardy he had put himself in on their account. When the voting commenced, the first two tribes went for Gracchus. The wealthy held that it was not constitutional for a man to hold the office twice in succession. The tribune, Rubrius, who had been selected by lot to preside over the comitia, was in doubt upon the question, and Mummius, who had been elected instead of Octavius, besought him to hand the assembly over to his charge. So he did, but the other tribunes objected that the chairmanship should be decided by lot, maintaining that when Rubrius, who had been selected in that way, relinquished it, the casting of lots ought to be done all over again. Since there was a deal of wrangling on this point, Gracchus, who was being bested, postponed the election until the next day. In deep despondency he robed himself in black, though still in office, and led his son about the forum, introducing him to each man and putting him in their care, as if he himself were about to die at the hands of his foes.

The poor were affiicted with great grief, and justly so, both on account of themselves, for they thought that they would no longer dwell in a free state under equitable laws, but were to be reduced to serfdom by the rich, and on account of Gracchus personally, who had brought upon himself such peril for their sakes. Therefore, they all escorted him with lamentations to his home at night time, and bade him to take heart for the next day. Gracchus gathered courage, and calling together his friends before daylight, imparted to them a sign to be made for a resort to violence. Then he placed himself in the temple on the Capitoline hill, where the election was to be held, and put himself in the middle of the comitia. As he was checked by the other tribunes and by the wealthy, who would not permit the votes to be taken on this question, he gave the sign. A sudden uproar arose from those who saw it and the resort to arms followed. Part of the faction of Gracchus took their stand about him like a body-guard. Others that had girded themselves, laid hold of the fasces and staves in the hands of lictors and shattered them into pieces. The rich were thrown out of the comitia with so much tumult and so many wounds

that the tribunes rushed from their seats in consternation, and the priests closed the doors of the temple. Many ran hither and thither and cast wild reports abroad. Some said that Gracchus had impeached all the other tribunes and this was given credence because none of them were in sight. Others said that he had declared himself tribune for the next year without a vote.

Under these conditions the senate came together at the temple of Faith. It is astounding to me that they never thought of electing a dictator in this crisis, though they had often been defended by the rule of an absolute magistrate amid such periods of danger. Though this expedient had been found very serviceable in ancient times, few thought of it either then or afterwards. After coming to the decision they arrived at, they marched to the Capitol, the high priest, Cornelius Scipio Nasica, at their head, crying out in a sonorous voice, "Let those who would save the state follow me." He gathered the border of his toga around his head, either to attract a larger crowd to follow him by his peculiar appearance, or to make for himself, as it were, a helmet as a signal for violence to the spectators, or to hide from the gods what he was about to do. When he came to the temple and stepped forward against the adherents of Gracchus, they yielded to the prestige of so eminent a citizen, for they saw the senate behind him. The senators wrenched clubs from the very hands of the followers of Gracchus, or with pieces of torn-up benches or other things that had been brought for the use of the comitia, began mauling them and in hot pursuit, drove them over the precipice. In the riot many followers of Gracchus were killed and Gracchus himself, being seized near the temple, was slain at the door near the statues of the kings. All the corpses were thrown into the Tiber at night.

Thus died on the Capitol and while still tribune, (Tiberius) Gracchus, the son of the Gracchus who was twice consul and of Cornelia, the daughter of the Scipio that conquered Carthage. He lost his life because he followed up an excellent plan in too lawless a way. This awful occurrence, the first of the kind that took place in the public assembly, was never long without a new parallel thereafter. On the matter of the killing of Gracchus, the city was divided between grief and joy. Some sorrowed for themselves and him and bewailed the existing state of affairs, believing that the republic no longer existed, but had been usurped by coercion and violence. Others congratulated themselves that everything had turned out just as they wanted it to. This event happened at the time that Aristonicus was

struggling with the Romans for the mastery of Asia.

After Tiberius Gracchus was killed Appius Claudius (his father-in-law) died and Fulvius Flaccus and Papirius Carbo were selected, together with the younger (Gaius) Gracchus, to divide the land. As those in possession failed to hand in lists of what they held, it was announced that informers should give evidence against them. A large number of perplexing lawsuits sprang up. Where a new field had been purchased next to an old one, or where the land had been divided with allies, the whole section had to be gone over in the surveying of this one field, in order to discover how it had been sold or partitioned. Some owners had not kept their bills of sale or deeds of allotment, and even those that were unearthed were often ambiguous. On the remeasuring of the land, some had to give up orchards and farm buildings for bare fields. Others were moved from tilled to untilled lands or to swamps or ponds. In short, the surveying had been carelessly done when the land was first taken away from the enemy. Since the first proclamation sanctioned anyone's cultivating the unassigned land that wished to, men had been impelled to till the parts tying next to their own land until the boundary line between the two had been lost sight of. The lapse of time had also made many changes. Thus, what injustice had been done by the rich, though great, was not easily discovered. So nothing less than a general commotion followed, everybody being ousted from his own place and set down in somebody else's.

The Italian allies that remonstrated at this disturbance and especially against the lawsuits suddenly brought against them, selected Cornelius Scipio, the destroyer of Carthage, to protect them from these annoyances. As he had used their powerful aid in war, he did not like to refuse their request. So, coming into the senate, he explained the difficulty in enforcing Gracchus's law, although, for the sake of the plebs, he did not openly attack it. He held that these cases ought not to be judged by the triumvirs, as they did not have the confidence of the disputants, but should be handed over to others. As his point of view seemed just, they let themselves be persuaded, and the consul, Tuditanus, was chosen to sit in these cases. But when he began on the matter he saw its difficulties, and then led the army against the Illyrians as an excuse to get out of acting as judge, and since no one could bring the cases before the triumvirs they fell into abeyance. Hence ill feeling and resentment sprung up against Scipio among the people, because they saw him for whose sake they had often taken sides against the aristocracy and brought upon themselves hostility,

twice electing him consul contrary to law, now siding with the Italian allies against them. When Scipio's foes saw this, they charged that he was intent on annulling the law of Gracchus entirely, and to that end was about to incite armed violence and bloodshed.

When the populace heard these accusations they were much disturbed until Scipio, who had placed near his couch at home one evening a tablet, on which he intended during the night to write the speech he was to deliver before the people, was found dead on his couch without a wound. Whether this was caused by Cornelia, the mother of the Gracchi, assisted by her daughter, Sempronia, who was the wife of Scipio, but unloved and unaffectionate because she was deformed and childless, to prevent the law of Gracchus being abolished, or whether, as some believed, he committed suicide because he saw clearly that he could not do what he had said he would, is not certain. Some say that slaves, after being exposed to torture, confessed that unknown persons, who were brought through the rear of the house by night, strangled him, and that those who knew about it refrained from telling because the people were still incensed at him and were glad he died. So Scipio perished, and though he had been of enormous service to the Roman state, he was not given the honor of a public funeral. Thus does the irritation of the moment efface the appreciation of past service. This event, important enough in itself, happened as an incident of the undertaking of Gracchus.

Even after this those holding the lands long put off upon various excuses the division of their holdings. Some thought the Italian allies, who objected to it most strenuously, should be admitted to Roman citizenship, in order that, out of thankfulness for so great a favor, they should not longer protest about the land. The Italians were ready to accept this compromise, since they had rather have Roman citizenship that the ownership of these fields. Fluvius Flaccus, at that time both consul and triumvir, did his best to carry it through, but the senate was wroth at the proposition to make their subjects of equal rank with themselves. So the effort was dropped and the people, who had been so long hopeful of obtaining land, began to be discouraged. While they were in this frame of mind, Gaius Gracchus, who had made himself popular as a triumvir, stood for the tribuneship. He was the younger brother of Tiberius Gracchus, the originator of the law. He had kept silent concerning the killing of his brother for some time, but as some of the senate treated him disdainfully, he offered himself as a candidate for the tribuneship, and as soon as he was elected to

this high office began to intrigue against the senate. He proposed that a monthly distribution of grain should be made to each citizen at the expense of the state. This had not been the custom prior to this. Thus he put himself at the head of the populace at a bound by one stroke of politics, in which he had the assistance of Flavius Flaccus. Right after this he was elected tribune for the next year also, for in cases where there were not enough candidates the law permitted the people to fill out the list from those still in office.

In this way Gaius Gracchus became tribune a second time. After, so to say, buying the plebs, he began to court the knights, who hold the rank midway between the senate and the plebs, by another similar stroke of politics. He handed over the courts of justice, which had become distrusted on account of bribery, from the senators to the knights, upbraiding the senators particularly for the recent instances of Aurelius Cotta, Salinator, and thirdly Manius Aquilius (the one that conquered Asia), all shameless bribe-takers, who had been set free by the judges, even though envoys sent to denounce them were still present, going about making disgraceful charges against them. The senate was very much ashamed of such things and agreed to the law and the people passed it. Thus the courts of justice were handed over from the senate to the knights. It is reported that soon after the enactment of this law Gracchus made the remark that he had destroyed the supremacy of the senate once for all, and this remark of his has been corroborated by experience throughout the course of history. The privilege of judging all Romans and Italians, even the senators themselves, in all affairs of property, civil rights and exile, raised the knights like governors over them, and placed the senators on the same plane as subjects. As the knights also voted to support the power of the tribunes in the comitia and received whatever they asked from them in return, they became more and more dangerous opponents to the senators. Thus it soon resulted that the supremacy in the state was reversed, the real mastery going into the hands of the knights and only the honor to the senate. The knights went so far in using their power over the senators as to openly mock them beyond all reason. They, too, imbibed the habit of bribe-taking and, after once tasting such immense acquisitions, they drained the draught even more shamefully and recklessly than the senators had done. They hired informers against the rich and put an end to prosecutions for bribe-taking entirely, partly by united action and partly by actual violence, so that the pursuit of such investigations was done away with entirely. Thus

the judiciary law started another factional contest that lasted for a long time and was fully as harmful as the previous ones.

Gracchus constructed long highways over Italy and thus made an army of contractors and workmen dependent on his favor and rendered them subject to his every wish. He proposed the establishment of a number of colonies. He prompted the Latin allies to clamor for all the privileges of Roman citizenship, for the senate could not becomingly deny them to the kinsmen of the Romans. He attempted to give the right to vote to those allies that were not permitted to take part in Roman elections, so as to have their assistance in the passing of measures that he had in mind. The senate was greatly perturbed at this and commanded the consuls to set forth the following proclamation, "No one that does not have the right to vote shall remain in the city or come within forty stadia of it during the time that the voting is taking place upon these laws." The senate also got Livius Drusus, another tribune, to intercede his veto against the measures brought forward by Gracchus without telling the plebs his reasons for so doing; for a tribune did not have to give his reasons for a veto. In order to curry favor with the plebs they gave Drusus permission to found twelve colonies, and the people were so much taken with this that they began to jeer at the measures that Gracchus proposed.

As he had lost the good will of the populace, Gracchus set sail for Africia along with Fulvius Flaccus, who, after his consulship, had been elected tribune through the same causes for which Gracchus had. A colony had been assigned to Africa, because of the reported richness of its soil, and these men had been selected as its founders for the very sake of getting rid of them for awhile, in order that the senate might be untrammeled by demagogy for a time. They laid out a town for the colony in the same place where Carthage had formerly lain, paying no heed to the fact that Scipio, when he razed it, had consigned it with imprecations to eternal sheep-gazing. They allotted six thousand colonists to this town, as against the smaller number assigned by law in order thus to further conciliate the people. Then, returning to Rome they solicited the six thousand from all Italy. The managers that had remained in Africa laying out the town sent back word that wolves had dragged out and carried far and wide the boundary marks placed by Gracchus and Fulvius, and the sooth-sayers held this to be a bad omen for the colony. So the senate called together the comitia proposing to repeal the law authorizing the colony. When Gracchus and Fulvius saw that they were about to fail in this affair they became

desperate and charged that the senate had lied about the wolves. The rashest of the plebs, with daggers in hand, gathered about them and accompanied them to the assembly where the comitia was to be held in regard to the colony.

The people were already assembled and Fulvius had commenced to address them about the matter when Gracchus reached the Capitol surrounded by a body-guard of his friends. Agitated by his knowledge of the unwonted schemes in hand, he turned away from the meeting place of the comitia, passing into the porch, and walked about, waiting to learn what would take place. Just then a pleb by the name of Antyllus, who was making a sacrifice in the porch, saw him thus troubled in mind, and, grasping him by the hand, because he had either heard or guessed something or was prompted through some impulse to speak to him, begged him to spare his fatherland. Still more agitated and starting as if caught in the act of a crime, Gracchus gave a sharp glance at the man. One of his partisans, without any sign or order being given, gathered from the piercing look itself given by Gracchus to Antyllus, that the moment to strike was at hand, and thought he should render Gracchus a kindness by giving the first blow; so he drew forth his dagger and stabbed Antyllus. An uproar was raised, the dead man being seen in the midst of the throng, and every one outside fled away from the temple, fearful of a similar fate. Gracchus went into the comitia in order to exonerate himself of the act, but no one would even listen to him. Everyone turned away from him as from one tainted with bloodshed. Gracchus and Flaccus were confounded, and having missed the opportunity to carry out their plans, they hurried home along with their adherents. The rest of the great mass of people stayed in the forum during the night, as if some fearful crisis were at hand. One of the consuls, who was staying in the city, Opimius, ordered an armed guard to be placed at the Capitol at daybreak and dispatched heralds to convene the senate. He stationed himself in a temple of Castor and Pollux in the middle of the city, and awaited the outcome there.

When these preparations had been made, the senate called Gracchus and Flaccus from their homes to the senate-house to make their defence, but with arms in their hands, they fled to the Aventine hill, hoping that if they could get possession of it first the senate would come to some understanding with them. They ran through the city promising liberty to slaves, but none paid heed to them. Nevertheless, with such troops as they had, they seized and barricaded the temple of

Diana and dispatched Quintus, the son of Flaccus, to the senate, trying to make terms and dwell in peace. The senate sent back word for them to put down their arms, and to come to the senate-house and tell what they desired, or else send no more emissaries. As they sent Quintus a second time, the consul Opimius seized him, as no longer an envoy after being thus warned, and sent a force in arms against the followers of Gracchus. Gracchus fled to a grove across the river by the wooden bridge, accompanied by one slave, to whom he bared his throat when on the point of being taken. Flaccus sought shelter in the shop of an acquaintance. As those pursuing him did not know what shop he was in they threatened to set fire to the whole line. The man that had given the suppliant refuge was loth to point out his hiding place, but told some one else to do so. Flaccus was caught and slain. The heads of Gracchus and Flaccus were brought to Opimius and he gave an equal weight in gold to the ones presenting them. The mob pillaged their homes. Opimius seized their confederates and threw them into prison, ordering them to be strangled to death. After this a lustration on account of the bloodshed was made by the city and the senate ordered the erection of a temple to Harmony in the forum.—Appian, Civil Wars, I. 1-3.

XX. MISMANAGEMENT OF THE PROVINCES

When C. Gracchus returned from Sardinia, he addressed the assembly of the people in these words: "I have managed the province as I thought it would serve best your advantage, not my own ambition. I had no tavern, nor did beautiful youths attend me. But your sons were more modestly served at my table than in service with the enemy." Afterwards he said: "I managed the province in such a way that no one could say that I took a penny or anything more as a present; or that by my means anyone had incurred expense. Two years have I been in the province, and if any harlot has entered my house or any slave been seduced for my purposes, you may consider me the lowest and most abandoned of men. If I was thus continent with their slaves, you may suppose what was my conduct with regard to your sons." And a little further on he says: "And so, fellow-citizens, though I went away from Rome with my bags full of money, I brought them back from the province empty; the wine casks which

others took away full of wine, they have brought back home full of silver."

....I was reading lately a speech of C. Gracchus upon promulgated laws, in which with all the indignation of which he is master, he complains that M. Marius and certain other persons of distinction from the municipal towns of Italy were injuriously beaten with rods by the magistrates of the Roman people. This is what he says of the affair: "The consul lately came to Theanum Sidicinum (Tiano); he said his wife wished to bathe in the men's bath. M. Marius entrusted the affair to the quaestor of Sidicinum to see to it that those who were bathing should be sent away. The wife told her husband that the baths had not been given up to her quickly enough and were not sufficiently clean. Immediately a post was fixed in the forum, and M. Marius, the most illustrious man of his city, was led to it. His clothes were taken off; he was beaten with rods. When the inhabitants of Cules heard of it they straightway passed a law that no one should bathe in the public baths when the Roman magistrate was there. Our praetor also ordered the quaestors of Ferentum to be seized; one threw himself from the wall, the other was taken and beaten. . . . In another place also Gracchus says: "I will give you one example of the licentiousness and intemperance of our young men. A few years ago a young man was sent from Asio as an ambassador, who had not yet been in any magisterial office. He was being carried in a litter. A herdsman from the peasantry of Venussium met him, and not knowing who was being carried, asked as a joke whether they were bearing a dead body. When the youth heard this, he ordered the litter to be set down and the man to be beaten with the straps by which the litter was fastened, till he died."—Aulus Gellius, N. A., X. 1-3.

XXI. THE JULIAN LAW, GRANTING CITIZENSHIP TO ROME'S ALLIES

90 B. C.

By the Julian law itself, by which the rights of citizenship were given to the allies and to the Latins, it was decreed that those peoples who did not ratify the law, should not have the freedom of the city, which circumstance gave rise to a great contention among the people of Heraclea and among the people of Neapolis, as a great part of the population in those states preferred the liberty which they had enjoyed

by treaty with us to the rights of citizenship.—Cicero, For Balbius, VIII.

XXII. ETRUSCANS AND UMBRIANS ADMITTED TO ROMAN CITIZENSHIP

90 B. C.

While such matters were taking place on the coast of Italy bordering the Adriatic, the peoples of Etruria and Umbria and others near them on the other side of Rome learned of them and were all roused to rebellion. The senate, afraid of being hemned in by foes for lack of guards, garrisoned the coast from Cumae to Rome with freed slaves, then for the first time, because of a lack of soldiers, enrolled in the army. The senate also decreed that the Italians that had remained in alliance should be admitted to citizenship, which was the one thing they desired most. They sent this decree amongst the Etruscans, who with great joy accepted the citizenship. By this favor the senate made the steadfast more steadfast, strengthened the hesitating, and mollified their foes by the hope of a like treatment.—Appian, Civil Wars, I. 49.

XXIII. LEX PLAUTIA

89 B. C.

Then the consuls, Silanus and Carbo, passed a law that all members of tribes federated with Rome might have Roman citizenship if when the law was passed they held their domicile in Italy, and within sixty days should claim it before the Praetor.—Scholias Babbienzis, Orelli's Edition, p. 353.

XXIV. THE CORNELIAN JUDICIARY LAWS

About this same time, Cotta divided equally between the two orders the privilege of being judges, which Caius Gracchus had taken from the senate, and transferred to the knights and which Sulla had again restored to the senators.—Velleius Paterculus II. 32.

XXV. THE CHANGE IN GOVERNMENT FROM A REPUBLIC TO AN EMPIRE

Therefore, the senate decreed these honors to Augustus, that he should be perpetual tribune of the plebs, that as often as the senate met, even if he did not hold the consulship, he should have the right of making one proposition to the senate; that in the same way and at the same time, he should have the authority of a proconsul, and that it should not be necessary for him to lay it aside on entering the city's limits, or even to renew it; that in each of the provinces his authority should be above that of the prefects of the provinces. Hence it has come about that Augustus and the emperors who have followed him, have used with a certain show of legality, both these other powers and the power of the tribune. For neither Augustus nor any other emperor took the name itself of tribune of the plebs.—Dio Cassius (155-235 A. D.), LIII. 32.

XXVI. ELECTIONS GIVEN TO THE SENATE

14 A. D.

The assemblies for electing magistrates were now first transferred from the Campus Martius to the senate; for though the emperor had conducted all affairs of moment at his pleasure; yet, till that day, some were still transacted according to the inclination of the tribes. Neither did the regret of the people for the seizure of these ancient rights, rise higher than some impotent grumbling: the senate, too, released from the charge of buying votes, and from the shame of begging them, willingly acquiesced in the regulation, by which Tiberius contented himself with the recommendation of four candidates only, to be accepted without opposition or canvassing. At the same time, the tribunes of the people asked leave to celebrate, at their own expense, certain games in honor of Augustus, which were called after his name, and which were now inserted in the calendar. But it was decreed that the charge should be defrayed out of the exchequer, and that the tribunes should in the circus wear the triumphal robe; but to be carried in chariots was denied them. The annual celebration of these plays was, for the future, transferred to the prætors, to whom should fall the jurisdiction

of deciding suits between citizens and strangers.—Tacitus Annals, I. 15.

XXVII. VESPASIAN'S LAW CONCERNING THE EMPIRE
69 A. D.

(IMPORTANT FOR THE GROWTH OF IMPERIAL POWER.)

1. It is hereby enacted that it shall be lawful for Emperor Caesar Vespasian Augustus * * * * * * * to conclude treaties with whomsoever he shall wish, as it was lawful for the deified Augustus, for Tiberius Julius Caesar Augustus, and for Tiberius Claudius Caesar Augustus Germanicus;

2. And that it shall be lawful for him to convoke the senate, to propose a matter for discussion, to transmit to it a question submitted to him, and to procure a decree of the senate by the proposal of a bill and a division of the house;

3. And that, when a meeting of the senate shall be held in accordance with his pleasure or authority, by his order or injunction, or in his presence, all proceedings at such a meeting shall be accounted valid, and observance shall be due them, just as if the meetings of the senate had been announced and held in accordance with ordinary procedure;

4. And that whatsoever candidates for office, power, authority, or charge of any matter he shall have recommended to the Roman Senate and people, to whomsoever he shall have given or promised his support, account shall be taken extraordinarily of them at any comitia whatsoever;

5. And that it shall be lawful for him to advance and promote the boundiaries of the pomperium whenever he shall think it advantageous for the state, as it was lawful for Tiberius Claudius Caesar Augustus Germanicus;

6. And that, whatsoever he shall think likely to promote the welfare of the state, the dignity of sacred and profane, public and private interests, he shall have full right and authority to do and execute; as had the deified Augustus, Tiberius Julius Caesar Augustus, and Tiberius Claudius Caesar Augustus Germanicus;

7. And that, whatsoever laws and plebiscites were declared not to be binding on the deified Augustus, Tiberius Julius Caesar Augustus, or Tiberius Claudius Caesar Augustus Germanicus, from these

laws and plebiscites, Emperor Caesar Vespasian shall be exempt, and that whatsoever things it was allowed the deified Augustus, or Tiberius Julius Caesar Augustus, or Tiberius Claudius Caesar Augustus Germanicus to do by any law or bill, it shall be lawful for Emperor Vespasion Caesar Augustus to do all those things.

8. And that whatsoever has been done, executed, or commanded by Emperor Vespasian Caesar Augustus or by any person on his order or injunction before the passage of this law, shall be legal and valid, just as if it had been done by the people or plebs.

9. Degree of inviolability.

If any person has done or shall have done anything on account of this law contrary to the provisions of any law, bill, plebiscite, or decree of the senate, or if, on account of this law, he shall have left undone what, in accordance with any law, bill, plebiscite, or decree of the senate, he should do, it shall not be a crime on his part, nor shall he be liable to pay any penalty to the people on that account, nor shall any person have the right of entering suit or proceeding judicially on that ground, nor shall any person allow suit concerning it to be carried on before him.

XXVIII. NERVA'S CARE OF INDIGENT CHILDREN

96-97 A. D.

"He (Nerva) ordered the girls who were born of indigent parents to be brought up at public expense in the towns of Italy."—Aurelius Victor, Epitome, 12

XXIX. "MUNICIPIA," AND "COLONIES"

The words *municipes* and *municipia* are easy to say and obvious in meaning, and you would never find a man who uses them, but supposes that he clearly knows their meaning. But in fact, he says one thing and means another, for who is there that, coming from a colony of the Roman people, does not call himself *municeps* and his fellows *municipes,* which is far from reason and truth. So we are also ignorant as to what *municipia* are and by what law they exist, and how they differ from a *colonia;* and we suppose that colonies are more privileged than *municipia.... Municipes* are Roman citizens from *Muni-*

cipia, having their own laws and their own rights; being only partakers of the honorary privileges of the Roman people, they seem to have received their name from the fact of their receiving priviliges (*a munere suppessenda*), not being bound by the other restrictions or by any law of the Roman people. . . . But *coloniae* stand in another relationship; they do not come into the state from the outside, nor are they grown from their own roots, but are, as it were, offshoots of the state, and have all the laws and institutes of the Roman people, and not those of their own making; this condition, though it seems more oppressive and less free, yet is deemed more desirable and honorable, because of the greatness and majesty of the Roman people, of which these colonies seem to be little images and copies; and likewise because the rights of the *municipia* become obscure and forgotten, because from their ignorance of their proper claims.—Aulus Gellius, N. A. XVI. 13.

XXX. CARACALLA EXTENDS ROMAN CITIZENSHIP TO ALL THE FREE INHABITANS OF THE EMPIRE

212 A. D.

He (Antoninus Caracalla) gave citizenship to all who were in the Roman world, giving it to them as an honor in appearance, but in fact that he might increase his revenue; since indeed all those in the Empire who had not citizenship escaped most of these taxes.—Dio Cassius, LXXVI. 9.

XXXI. DIOCLETIAN'S CHANGES AND REFORMS

284 A. D.

The victorious army, on returning from Persia, as they had lost their emperor, Carus, by lightning, and the Cæsar Numerianus by a plot, conferred the imperial dignity on Diocletian, a native of Dalmatio, of such extremely obscure birth, that he is said by most writers to have been the son of a clerk, but by some to have been a freedman of a senator named Tulinus.

XX. Diocletian, in the first assembly of the army that was held, took an oath that Numerian was not killed by any treachery on his part; and while Aper, who laid the plot for Numerian's life, was standing by,

he was killed, in the sight of the army, with a sword in the hand of Diocletian. He soon after overthrew Carinus, who was living under the utmost hatred and detestation, in a great battle at Margum, Carinus of men than the enemy, he was altogether abandoned by them between Viminacium and Mount Aureus. He thus became master of the Roman empire; and when the peasants in Gaul made an insurrection, giving their faction the name of Bagaudæ and having for leaders Amandus and Ælianus, he despatched Maximian Herculius, with the authority of Cæsar, to suppress them. Maximian, in a few battles of little importance, subdued the rustic multitude, and restored peace to Gaul.

During this period, Carausius, who, through of very mean birth, had gained extraordinary reputation by a course of active service in war, having received a commission in his post at Bononia, to clear the sea, which the Franks and Saxons infested, along the coast of Belgica and Armorica, and having captured numbers of the barbarians on several occasions, but having never given back the entire booty to the people of the province or sent it to the emperors, and there being a suspicion, in consequence, that the barbarians were intentionally allowed by him to congregate there, that he might seize them and their booty as they passed, and by that means enrich himself, assumed, on being sentenced by Maximian to be put to death, assumed the imperial purple, and took on him the government of Britain.

While disorder thus prevailed throughout the world, while Carausius was taking arms in Britain and Achilleus in Egypt, while Quinquegentiani were harassing Africa, and Nauseus was making war being betrayed by his own troops, for though he had a greater number upon the east, Diocletian promoted Maximian Herculius from the dignity of Cæsar to that of emperor, and created Constantius and Maximian Galerius Cæsars, of whom Constantius is said to have been the grand-nephew of Claudius, by a daughter, and Maximian Galerius to have been born in Dacia not far from Sardica. That he might also unite them by affinity, Constantius married Theodora, the step-daughter of Herculius, by whom he had afterwards six children, brothers to Constantine; who Galerius married Valeria, the daughter of Diocletian; both being obliged to divorce the wives they had before. With Carausius, however, as hostilities were found vain against a man eminently skilled in war, a peace was at last arranged. At the end of seven years, Allectus, one of his supporters, put him to death, and held Britain himself for three years subsequently, but was cut off by the efforts

of Asclepidotus, præfect of the prætorian guard.

At the same period a battle was fought by Constantius Cæsar in Gaul, at Lingonæ, where he experienced both good and bad fortune in one day; for though he was driven into the city by a sudden onset of the barbarians, with such haste and precipitation that after the gates were shut he was drawn up the wall by ropes, yet, when his army came up, after the lapse of six hours, he cut to pieces about sixty thousand of the Alemanni. Maximian, the emperor, too brought the war to an end in Africa, by subduing the Quinquegentiani, and compelling them to make peace. Diocletian, meanwhile, besieging Achilleus in Alexandria, obliged him to surrender about eight months after, and put him to death. He used his victory, indeed, cruelly, and distressed all Egypt with severe proscription and massacres. Yet at the same time he made many judicious arrangements and regulations, which continue to our own days.

Galerius Maximian, in acting again Narseus, fought, on the first occasion, a battle far from successful, meeting him between Callinicus and Carræ, and engaging in the combat rather with rashness than want of courage; for he contended with a small army against a very numerous enemy; Being, in consequence, defeated, and going to join Diocletian, he was received by him, when he met him on the road, with such extreme haughtiness, that he is said to have run by his chariot for several miles in his scarlet robes.

But having soon after collected forces in Illyricum and Mœsia, he fought a second time with Narseus (the grand-father of Hormisdas and Sapor) in Greater Armenia, with extraordinary success, and with no less caution and spirit, for he undertook, with one or two of the cavalry, the office of a *speculator*. After putting Narseus to flight, he captured his wives, sisters, and children, with a vast number of the Persian nobility besides, and a great quantity of treasure; the king himself he forced to take refuge in the remotest deserts in his dominions. Returning, therefore, in triumph to Diocletian, who was then encamped with some troops in Mesopotamia, he was welcomed by him with great honor. Subsequently, they conducted several wars both in conjunction and separately, subduing Carpi and Bastarnæ, and defeating Sarmations, from which nations he settled a great number of captives in the Roman territories.

Diocletian was of a crafty disposition, with much sagacity, and keep penetration. He was willing to gratify his own disposition to cruelty in such a way as to throw the odium upon others; he was, how-

ever, a very active and able prince. He was the first that introduced into the Roman empire a ceremony suited rather to royal usages than to Roman liberty, giving orders that he should be adored, whereas all emperors before him were only saluted. He put ornaments of precious stones on his dress and shoes, when the imperial distinction had previously been only in the purple robe, the rest of the habit being the same as that of other men.

But Herculius was undisguisedly cruel, and of a violent temper, and showed his severity of disposition in the sternness of his looks. Gratifying his own inclination, he joined with Diocletian in even the most cruel of his proceedings. But when Docletian, as age bore heavily upon him, felt himself unable to sustain the government of the empire, he suggested to Herculius that they should both retire into private life, and commit the duty of upholding the state to more vigorous and youthful hands. With this suggestion his colleague reluctantly complied. Both of them, in the same day, exchanged the robe of purple for an ordinary dress, Diocletian at Nicomedia, Herculius at Milan, soon after a magnificent triumph which they celebrated at Rome, over several nations, with a noble succession of pictures, and in which the wives, sisters and children of Narseus were led before their chariots. The one then retired to Salonæ, and the other into Lucania.

Diocletian lived to an old age in a private station, at a villa which is not far from Salonæ, in honorable retirement, exercising extraordinary philosophy, inasmuch as he alone of all men, since the foundation of the Roman empire, voluntarily returned from so high a dignity to the condition of private life, and to an equality with the other citizens. That happened to him, therefore, which had happened to no one since men were created, that, though he died in a private condition, he was enrolled among the gods.—Eutropius, IX. 19-28.

TRANSLATION OF JOHN S. WATSON.

While Diocletian, the author of ill, and deviser of misery, was ruining all things, he could not withhold his insults, not even against God. This man, by avarice partly, and partly by timid counsels, overturned the Roman empire. For he made choice of three persons to share the government with him; and thus, the empire having been quartered, armies were multiplied, and each of the four princes strove to maintain a much more considerable military force than any sole emperor had done in times past. There began to be fewer men who

paid taxes than there were who received wages; so that the means of the husbandman being exhausted, by enormous impositions, the farms were abandoned, cultivated grounds became woodland, and universal dismay prevailed. Besides, the provinces were divided into minute portions, and many presidents and a multitude of inferior officers lay heavy on each territory, and almost on each city. There were also many stewards of different degrees, and deputies of presidents. Very few civil causes came before them; but there were condemnations daily, and forfeitures frequently inflicted; taxes on numberless commodities, and those not only often repeated, but perpetual, and, in exacting them, intolerable wrongs.

Whatever was laid on for the maintenance of the soldiery might have been endured; but Diocletian, through his insatiable avarice, would never allow the sums of money in his treasury to be diminished: he was constantly heaping together extraordinary aids and free gifts, and his original hoards might remain untouched and inviolable. He also, when by various extortions he had made all things exceedingly dear, attempted by an ordinance to limit their prices. Then much blood was shed for the veriest trifles; men were afraid to expose aught to sale, and the scarcity became more excessive and grievous than ever, until, in the end, the ordinance, after having proved destructive to multitudes, was from mere necessity abrogated. To this there were added a certain endless passion of building, and on that account, endless exactions from the provinces for furnishing wages to laborers and artificers, and supplying carriages and whatever else was requisite to the works which he projected. *Here* public halls, *there* a circus, *here* a mint, and *there* a workhouse for making implements of war; in one place a habitation for his empress, and in another for his daughter. Presently a great part of the city was quitted, and all men removed with their wives and children, as from a town taken by enemies; and when those buildings were completed, to the destruction of whole provinces, he said, "They are not right, let them be done on another plan." Then they were to be pulled down, or altered, to undergo perhaps a future demolition. By such folly was he continually endeavoring to equal Nicomedia with the city Rome in magnificence.—**Lactantius, On the Death of the Persecutors, 7.**

THE INSTITUTES OF JUSTINIAN

527-565 A. D.

BOOK I. OF PERSONS

I. JUSTICE AND LAW

JUSTICE is the constant and perpetual wish to render every one his due.

1. Jurisprudence is the knowledge of things divine and human; the science of the just and the unjust.

2. Having explained these general terms, we think we shall commence our exposition of the law of the Roman people most advantageously, if we pursue at first a plain and easy path, and then proceed to explain particular details with the utmost care and exactness. For, if at the outset we overload the mind of the student, while yet new to the subject and unable to bear much, with a multitude and variety of topics, one of two things will happen—we shall either cause him wholly to abandon his studies, or, after great toil, and often after great distrust to himself (the most frequent stumbling block in the way of youth), we shall at last conduct him to the point, to which, if he had been led by an easier road, he might, without great labor, and without any distrust of his own powers, have been sooner conducted.

3. The maxims of law are these: to live honesty, to hurt no one, to give every one his due.

4. The study of law is divided into two branches; that of public and that of private law. Public law regards the government of the Roman empire; private law, the interest of the individuals. We are now to treat of the latter, which is composed of three elements, and consists of precepts belonging to the natural law, to the law of nations, and to the civil law.

II. NATURAL, COMMON AND CIVIL LAW.

The law of nature is that law which nature teaches to all animals. For this law does not belong exclusively to the human race, but belongs to all animals, whether of the earth, the air, or the water. Hence

comes the union of the male and female, which we term matrimony; hence the procreation and bringing up of children. We see, indeed, that all the other animals besides men are considered as having knowledge of this law.

1. Civil law is thus distinguished from the law of nations. Every community governed by laws and customs, uses partly its own law, partly laws common to all mankind. The law which a people makes for its own government belongs exclusively to that state and is called the civil law, as being the law of the particular state. But the law which natural reason appoints for all mankind obtains equally among all nations, because all nations make use of it. The people of Rome, then, are governed partly by their own laws, and partly by the laws which are common to all mankind. We will take notice of this distinction as occasion may arise.

2. Civil law takes its name from the state which it governs, as, for instance, from Athens; for it would be very proper to speak of the laws of Solon or Draco as the civil law of Athens. And thus the law which the Roman people make use of is called the civil law of the Romans, or that of the Quirites; for the Romans are called Quirites from Quirinum. But whenever we speak of civil law, without adding the name of any state, we mean our own law; just as the Greeks, when 'the poet' is spoken of without any name being expressed, mean the great Homer, and we Romans mean Virgil. The law of the nations is common to all mankind, for nations have established certain laws, as occasion and the necessities of human life required. Wars arose, and in their train followed captivity and then slavery, which is contrary to the law of nature; for by that law all men are originally born free. Further, by the law of nations almost all contracts were at first introduced, as, for instance, buying and selling, letting and hiring, partnership, deposits, loans returnable in kind, and very many others.

3. Our law is written and unwritten, just as among the Greeks some of their laws were written and others were not written. The written part consists of laws, *plebiscita, senatus-consulta,* enactments of emperors, edicts of magistrates, and answers of jurisprudents.

4. A law is that which was enacted by the Roman people on its being proposed by a senatorian magistrate, as a consul. A *plebiscitum* is that which was enacted by the plebs on its being proposed by a plebeian magistrate, as a tribune. The *plebs* differ from the people as a species from its genus; for all the citizens, including patricians and senators, are comprehended in the people; but the *plebs* only

included citizens, not being patricians or senators. *Plebiscita,* after the Hortensian law had been passed, began to have the same force as laws.

5. A *senatus-consultum* is that which the senate commands or appoints: for, when the Roman people was so increased that it was difficult to assemble it together to pass laws, it seemed right that the senate should be consulted in place of the people.

6. That which seems good to the emperor has also the force of law; for the people, by the *lex regia,* which is passed to confer on him his power, make over to him their whole power and authority. Therefore whatever the emperor ordains by rescript, or decides in adjudging a cause, or lays down by edict, is unquestionably law; and it is these enactments of the emperor that are called constitutions. Of these, some are personal, and are not to be drawn into precedent, such not being the intention of the emperor. Supposing the emperor has granted a favor to any man on account of his merit, or inflicted some punishment, or granted some extraordinary relief, the application of these acts does not extend beyond the particular individual. But the other constitutions, being general, are undoubtedly binding on all.

7. The edicts of the prætors are also of great authority. These edicts are called the honorary law, because those who bear honors in the state, that is, the magistrates, have given them their sanction. The curule ædiles also used to publish an edict relative to certain subjects, which edict also became a part of the *jus honorarium.*

8. The answers of the jurisprudents are the decisions and opinions of persons who were authorized to determine the law. For anciently it was provided that there should be persons to interpret publicly the law, who were permitted by the emperor to give answers on questions of law. They were called jurisconsulti; and the authority of their decision and opinions, when they were all unanimous, was such, that the judge could not, according to the constitutions, refuse to be guided by their answers.

9. The unwritten law is that which usage has established; for ancient customs, being sanctioned by the consent of those who adopt them, are like laws.

10. The civil law is not improperly divided into two kinds, for the division seems to have had its origin in the customs of the two states Athens and Lacedæmon. For in these states it used to be the case, that the Lacedæmonians rather committed to memory what they observed as law, while the Athenians rather observed as law what they

had consigned to writing, and included in the body of their laws.

11. The laws of nature, which all nations observe alike, being established by a divine providence, remain ever fixed and immutable. But the laws which every state has enacted, undergo frequent changes, either by the tacit consent of the people, or by a new law being subsequently passed.

III. THE LAW OF PERSONS

All our law relates either to persons, or to things, or to actions. Let us first speak of persons; as it is of little purpose to know the law, if we do not know the persons for whose sake the law was made. The chief division in the rights of persons is this: men are all either free or slaves.

1. Freedom, from which men are said to be free, is the natural power of doing what we each please, unless prevented by force or by law.

2. Slavery is an institution of the law of nations, by which one man is made the property of another, contrary to natural right.

3. Slaves are denominated *servi,* because generals order their captives to be sold, and thus preserve them, and do not put them to death. Slaves are also called *mancipia,* because they are taken from the enemy by the strong hand.

4. Slaves either are born or become so. They are born so when their mother is a slave; they become so either by the law of nations, that is, by captivity, or by the civil law, as when a free person, above the age of twenty, suffers himself to be sold, that he may share the price given for him.

5. In the condition of slaves there is no distinction; but there are many distinctions among free persons; for they are either born free, or have been set free.

IV. DE INGENUIS

A person is *ingenuus* who is free from the moment of his birth, by being born in matrimony, of parents who have been either both born free, or both made free, or one of whom has been born and the other made free; and when the mother is free, and the father a slave, the child nevertheless is born free; just as he is if his mother is free, and it is uncertain who is his father; for he had then no legal father. And it is sufficient if the mother is free at the time of the birth, although a slave when she conceived; and on the other hand, if she be free when

she conceives, and is a slave when she gives birth to her child, yet the child is held to be born free; for the misfortune of the mother ought not to prejudice her unborn infant. The question hence arose, if a female slave with child is made free, but again becomes a slave before the child is born, whether the child is born free or a slave? Marcellus thinks it is born free, for it is sufficient for the unborn child, if the mother has been free, although only in the intermediate time; and this is true.

1. When a man has been born free he does not cease to be *ingenuus,* because he has been in the position of a slave, and has subsequently been enfranchised; for it has been often settled that enfranchisement does not prejudice the rights of birth.

V. FREEDMEN

Freedmen are those who have been manumitted from just servitude. Manumission is the process of freeing from 'the hand.' For while any one is in slavery, he is under 'the hand' and power of another, but by manumission he is freed from this power. This institution took its rise from the law of nations; for by the law of nature all men were born free; and manumission was not heard of, as slavery was unknown. But when slavery came in by the law of nations, the boon of manumission followed. And whereas all were denominated by the one natural name of 'men,' the law of nations introduced a division into three kinds of men, namely, freemen, and in opposition to them, slaves; and thirdly, freedmen who had ceased to be slaves.

1. Manumission is effected in various ways; either in the face of the Church, according to the imperial constitutions, or by *vindicta,* or in the presence of friends, or by letter, or by testament, or by any other expression of a man's last will. And a slave may also gain his freedom in many other ways, introduced by the constitutions of former emperors, and by our own.

2. Slaves may be manumitted by their masters at any time; even when the magistrate is only passing along, as when a praetor, or *praeses,* or proconsul is going to the baths, or the theater.

3. Freedmen were formerly divided into three classes. For those who were manumitted sometimes obtained a complete liberty, and became Roman citizens; sometimes a less complete, and became Latins under the *lex Junia Norbana;* and sometimes a liberty still inferior, and became *dedititii,* by the *lex Ælia Sentia.* But this lowest class, that of the *dedititii,* has long disappeared, and the title of Latins become rare;

and so in our benevolence, which leads us to complete and improve everything, we have introduced a great reform by two constitutions, which re-established the ancient usage; for in the infancy of the state there was but one liberty, the same for the enfranchised slave as for the person who manumitted him; excepting, indeed, that the person manumitted was freeborn. We have abolished the class of *dedititii* by a constitution published among our decisions, by which, at the suggestion of the eminent Tribonian, quaestor, we have put an end to difficulties arising from the ancient law. We have also, at his suggestion, done away with the *Latini Juniani,* and everything relating to them, by another constitution, one of the most remarkable of our imperial ordinances. We have made all freedmen whatsoever Roman citizens, without any distinction as to the age of the slave, or the interest of the manumittor, or the mode of manumission. We have also introduced many new methods by which slaves may become Roman citizens, the only kind of liberty that now exists.

VIII. THOSE NOT INDEPENDENT

We now come to another division relative to the rights of persons; for some persons are independent, some are subject to the power of others. Of those, again, who are subject to others, some are in the power of parents, others in that of masters. Let us first treat of those who are subject to others; for, when we have ascertained who these are, we shall at the same time discover who are independent. And first let us consider those who are in the power of masters.

1. Slaves are in the power of masters, a power derived from the law of nations: for among all nations it may be remarked that masters have the power of life and death over their slaves, and that everything acquired by the slave is acquired for the master.

2. But at the present day none of our subjects may use unrestrained violence towards their slaves, except for a reason recognized by law. For, by a constitution of the Emperor Antonius Pius, he who without any reason kills his own slave, is to be punished equally with one who has killed the slave of another. The excessive severity of masters is also restrained by another constitution of the same emperor. For, when consulted by certain governors of provinces on the subject of slaves, who fly for refuge either to temples, or the statues of the emperors, he decided that if the severity of masters should appear excessive, they might be compelled to make sale of their slaves upon equitable terms, so that the masters might receive the value; and this was a

very wise decision, as it concerns the public good, that no one should misuse his own property. The following are the terms of this rescript of Antonius, which was sent to Ælius Marcianus. 'The power of masters over their slaves ought to be preserved unimpaired, nor ought any man to be deprived of his just right. But it is for the interest of all masters themselves, that relief prayed on good grounds against cruelty, the denial of sustenance, or any other intolerable injury, should not be refused. Examine, therefore, into the complaints of the slaves who have fled from the house of Julius Sabinus, and taken refuge at the statue of the emperor; and, if you find that they have been too harshly treated, or wantonly disgraced, order them to be sold, so that they may not fall again under the power of their master; and, if Sabinus attempt to evade my constitution, I would have him know, that I shall severely punish his disobedience.'

IX. THE POWER OF PARENTS

Our children, begotten in lawful marriage, are in our power.

1. Marriage, or matrimony, is a binding together of a man and woman to live in an indivisible union.

2. The power which we have over our children is peculiar to the citizens of Rome; for no other people have a power over their children, such as we have over ours.

3. The child born to you and your wife is in your power. And so is the child born to your son of his wife, that is, your grandson or granddaughter; so are your great grandchildren, and all your other descendants. But a child born of your daughter is not in your power, but in the power of its own father.

X. MARRIAGE

Roman citizens are bound together in lawful matrimony, when they are united according to law, the males having attained the age of puberty, and the females a marriageable age, whether they are fathers or sons of a family; but, of the latter, they must first obtain the consent of their parents, in whose power they are. For both natural reason and the law require this consent; so much so, indeed, that it ought to precede the marriage. Hence the question has arisen, whether the daughter of a madman could be married, or his son marry? And as opinions were divided as to the son, we decided that as the daughter of a madman might, so may the son of a madman marry without the inter-

vention of the father, according to the mode established by our constitution.

1. We may not marry every woman without distinction; for with some, marriage is forbidden. Marriage cannot be contracted between persons standing to each other in the relation of ascendant and descendant, as between a father and daughter, a grandfather and his granddaughter, a mother and her son, a grandmother and her grandson; and so on, *ad infinitum*. And, if such persons unite together, they only contract a criminal and incestuous marriage; so much so, that ascendants and descendants, who are only so by adoption, cannot intermarry; and even after the adoption is dissolved, the prohibition remains. You cannot, therefore, marry a woman who has been either your daughter or granddaughter by adoption, although you may have emancipated her.

2. There are also restrictions, though not so extensive, on marriage between collateral relations. A brother and sister are forbidden to marry, whether they are the children of the same father and mother, or of one of the two only. And, if a woman becomes your sister by adoption, you certainly cannot marry; but, if the adoption is destroyed by emancipation, you may marry her; as you may also, if you yourself are emancipated. Hence it follows, that if a man would adopt his son-in-law, he ought first to emancipate his daughter; and if he would adopt his daughter-in-law, he ought previously to emancipate his son.

3. A man may not marry the daughter of a brother, or a sister, nor the granddaughter, although she is in the fourth degree. For when we may not marry the daughter of any person, neither may we marry the granddaughter. But there does not appear to be any impediment to marrying the daughter of a woman whom your father has adopted; for she is no relation to you, either by natural or civil law.

4. The children of two brothers or two sisters, or of a brother and sister, may marry together.

5. So, too, a man may not marry his paternal aunt, even though she be so only by adoption; nor his maternal aunt; because they are regarded in the light of ascendants. For the same reason, no person may marry his great aunt, either paternal or maternal.

6. There are, too, other marriages from which we must abstain, from regard to the ties created by marriage; for example, a man may not marry his wife's daughter, or his son's wife, for they are both in the place of daughters to him; and this must be understood to mean those who have been our stepdaughters or daughters-in-law; for if a woman is still your daughter-in-law, that is, if she is still married to your son,

you cannot marry her for another reason, as she cannot be the wife of two persons at once. And if your step-daughter, that is, if her mother is still married to you, you cannot marry her, because a person cannot have two wives at the same time.

7. Again, a man is forbidden to marry his wife's mother, and his father's wife, because they hold the place of mothers to him; a prohibition which can only operate when the affinity is dissolved; for if your step-mother is still your step-mother, that is, if she is still married to your father, she would be prohibited from marrying you by the common rule of law, which forbids a woman to have two husbands at the same time. So if your wife's mother is still your wife's mother, that is, if her daughter is still married to you, you cannot marry her, because you cannot have two wives at the same time.

8. The son of a husband by a former wife, and the daughter of a wife by a former husband, or the daughter of a husband by a former wife, and the son of a wife by a former husband, may lawfully contract marriage, even though they have a brother or sister born of the second marriage.

9. The daughter of a divorced wife by a second husband is not your step-daughter; and yet Julian says we ought to abstain from such a marriage. For the betrothed wife of a son is not your daughter-in-law; nor your betrothed wife your son's step-mother; and yet it is more decent and more in accordance with law to abstain from such marriage.

10. It is certain that the relationship of slaves is an impediment to marriage, even if the father and daughter or brother and sister, as the case may be, have been enfranchised.

11. There are other persons also, between whom marriage is prohibited for different reasons, which we have permitted to be enumerated in the books of the Digests or Pandects, collected from the old law.

12. If persons unite themselves in contravention of the rules thus laid down, there is no husband or wife, no nuptials, no marriage, nor marriage portion, and the children born in such a connection are not in the power of the father. For, with regard to the power of a father, they are in the position of children conceived in prostitution, who are looked upon as having no father, because it is uncertain who he is; and are therefore called *spurii,* either from a Greek word *sporadan,* meaning 'at hazard,' or as being *sine patre,* without a father. On the dissolution of such a connection there can be no claim made for the demand of a marriage portion. Persons who contract prohibited marriages are liable also to further penalties set forth in our imperial constitutions.

13. It sometimes happens, that children who at their birth were not in the power of their father, are brought under it afterwards. Such is the case of a natural son, who is given to the *curia,* and then becomes subject to his father's power. Again, a child born of a free woman, with whom marriage was not prohibited by any law, but with whom the father only cohabited, will likewise become subject to the power of his father if at any time afterwards instruments of dowry are drawn up according to the provisions of our constitution. And this constitution confers the same benefits on any children who may be subsequently born of the same marriage.

XI. ADOPTION

Not only are our natural children, as we have said, in our power, but those also whom we adopt.

1. Adoption takes place in two ways, either by imperial rescript, or by the authority of the magistrate. The imperial rescript gives power to adopt persons of either sex who are *sui juris;* and this species of adoption is called *arrogation.* By the authority of the magistrate we adopt persons in the power of an ascendant, whether in the first degree, as sons and daughters, or in an inferior degree, as grandchildren or great grandchildren.

2. But now, by our constitution, when a *fillusfamilias* is given in adoption by his natural father to a stranger, the power of the natural father is not dissolved; no right passes to the adoptive father, nor is the adopted son in his power, although we allow such son the right of succession to his adoptive father dying intestate. But if a natural father should give his son in adoption, not to a stranger, but to the son's maternal grandfather; or, supposing the natural father has been emancipated, if he gives the son in adoption to the son's paternal grandfather, or to the son's maternal great-grandfather, in this case, as the rights of nature and adoption concur in the same person, the power of the adoptive father, knit by natural ties and strengthened by the legal bond of adoption, is preserved undiminished, so that the adopted son is not only in the family, but in the power of his adoptive father.

3. When any one, under the age of puberty, is arrogated by the imperial rescript, the arrogation is only allowed when inquiry has been made into the circumstances of the case. It is asked, what is the motive leading to the arrogation, and whether the arrogation is honorable and expendient for the pupil. And the arrogation is always made under certain conditions; the arrogator is obliged to give security before a

public person, that is, before a notary, that if the pupil should die within the age of puberty, he will restore all the property to those who would have succeeded him if no adoption had been made. Nor, again, can the arrogator emancipate the person arrogated, unless, on examination into the case, it appears that the latter is worthy of emancipation; and, even then, the arrogator must restore the property belonging to the person he emancipates. Also, even if the arrogator, on his death-bed, has disinherited his arrogated son, or, during his life, has emancipated him without just cause, he is obliged to leave him the fourth part of all his goods, besides what the son brought to him at the time of arrogation, or acquired for him afterwards.

4. A younger person cannot adopt an older; for adoption imitates nature; and it seems unnatural that a son should be older than his father. Any one, therefore, who wishes either to adopt or arrogate a son should be the elder by the term of complete puberty, that is, by eighteen years.

5. A person may adopt another as grandson or granddaughter, great-grandson or great-granddaughter, or any other descendant, although he has no son.

6. A man may adopt the son of another as his grandson, and the grandson of another as his son.

7. If a man adopts a grandson to be the son of a man already adopted, or of a natural son in his power, the consent of this son ought first to be obtained, that he may not have a *suus heres* given him against his will. But, on the contrary, if a grandfather gives his grandson by a son in adoption, the consent of the son is not necessary.

8. He who is either adopted or arrogated is assimilated, in many points, to a son born in lawful matrimony; and therefore, if any one adopts a person who is not a stranger by imperial rescript, or before the prætor, or the *præses* of a province, he can afterwards give in adoption to another the person whom he has adopted.

9. It is a rule common to both kinds of adoption, that persons, although incapable of procreating, as, for instance, impotent persons, may, but those who are castrated cannot adopt.

10. Women, also, cannot adopt; for they have not even their own children in their power; but, by the indulgence of the emperor, as a comfort for the loss of their own children, they are allowed to adopt.

11. Adoption by the rescript of the emperor has this peculiarity. If a person, having children under his power, should give himself in arrogation, not only does he submit himself to the power of the arro-

gator, but his children are also in the arrogator's power, being considered his grandchildren. It was for this reason that Augustus did not adopt Tiberius until Tiberius had adopted Germanicus; so that directly the adoption was made, Germanicus became the grandson of Augustus.

12. Cato, as we learn from the ancients, has with good reason written that slaves, when adopted by their masters, are thereby made free. In accordance with which opinion, we have decided by one of our constitutions that a slave to whom his master by a solemn deed gives the title of son is thereby made free, although he does not require thereby the rights of a son.

XII. FREEING FROM POWER.

Let us now inquire into the different ways in which persons in the power of others are freed from it. How slaves are freed from the power of their masters may be learnt from what we have already said with regard to manumision. Those who are in the power of a parent became independent at his death; a rule, however, which admits of a distinction. For when a father dies, his sons and daughters become undoubtedly independent; but when a grandfather dies, his grandchildren do not necessarly become independent, but only if on the grandfather's death they do not fall under the power of their father. Therefore, if their father is alive at the death of their grandfather, and was in his power, then, on the grandfather's death, they become subject to the power of their father. But, if at the time of the grandfather's death their father is either dead, or has already passed out of the grandfather's power by emancipation, as they do not fall under the power of their father, they become independent.

1. If a man, convicted of some crime, is deported to an island, he loses the rights of a Roman citizen; whence it follows, that the children of a person thus banished cease to be under his power, exactly as if he were dead. Equally, if a son is deported, does he cease to be under the power of his father. But, if by favor of the emperor any one is restored, he regains his former position in every respect.

2. A father who is merely banished by relegation, still retains his children in his power; and a child who is relegated still remains in the power of his father.

3. When a man becomes a 'slave of punishment' he ceases to have his sons in his power. Person become 'slaves of punishment' who are condemned to the mines, or exposed to wild beasts.

4. A son, though he becomes a soldier, a senator, or a consul, still remains in the power of his father, from which neither military service nor consular dignity can free him. But by our constitution the supreme dignity of the patriciate frees the son from the power of his father immediately on the grant of the imperial patent. It is obviously absurd that a parent could emancipate his son from the tie of his power, and that the majesty of the emperor should not be able to release from the power of another, one whom he had chosen to be a father of the state.

5. If a parent is taken prisoner, although he become the slave of the enemy, yet his paternal power is only suspended, owing to the *jus postliminii;* for captives, when they return, are restored to all their former rights. Thus, on his return, the father will have his children in his power; for the *postliminium* supposes that the captive has never been absent. If, however, a prisoner dies in captivity, the son is considered to have been independent from the time when his father was taken a prisoner. So, too, if a son, or grandson, is taken prisoner, the power of the parent, by means of the *jus postliminii,* is only in suspense. The term *postliminium* is derived from *post* and *limen.* We therefore say of a person taken by the enemy, and then returning into our territory, that he is come back by *postliminium.* For, just as the threshold forms the boundary of a house, so the ancients have termed the boundary of the empire a threshold. Whence *limes,* also is derived, and is used to signify a boundary and limit. Thence comes the word *postliminium,* because the prisoner returned to the same limits whence he had been lost. The prisoner, also, who is retaken on the defeat of the enemy, is considered to have come back by *postliminium.*

6. Children, also, cease to be under the power of their parents by emancipation. Formerly emancipation was effected, either adopting the process of the ancient law, consisting of imaginary sales, each followed by a manumission, or by imperial rescript; but we, in our wisdom, have introduced a reform on this point by one of our constitutions. The old fictitious process is now done away with, and parents may now appear directly before a proper judge or magistrate, and free from their power their children, or grandchildren, or other descendants. And then, according to the prætorian edict, the parent has the same rights over the goods of those whom he emancipates, as the patron has over the goods of his freedman. And, further, if the child or children emancipated are within the age of puberty, the parent, by the emancipation, becomes their tutor.

7. It is also to be observed that a parent having in his power a

son, and by that son a grandson or granddaughter, may emancipate his son, and retain in his power his grandson or granddaughter; or, conversely, he may emancipate his grandson or granddaughter, and retain his son in his power; or, he may make them all independent. And it is the same in the case of a great-grandson, or a great-granddaughter.

8. If a father has a son in his power, and gives him in adoption to the son's natural grandfather or great-grandfather, in conformity with our constitutions enacted on this subject, that is, if he declares his intention in a formal act before a competent judge, in the present and without the dissent of the person adopted, and also in the presence of the person who adopts, then the right of paternal power is extinguished as to the natural father, and passes from him to the adoptive father; with regard to whom, as we have before observed, adoption preserves all its effects.

9. It must be observed, that if your daughter-in-law becomes pregnant, and if during her pregnancy you emancipate your son, or give him in adoption, the child will be born in your power; but if the child is conceived subsequently to the emancipation or adoption, he is born in the power of his emancipated father, or his adoptive grandfather. Children, natural or adoptive, have almost no means of compelling their parents to free them from their power.

XIII. GUARDIANSHIP

Let us now proceed to another division of persons. Of those who are not in the power of a parent, some are under a tutor, some under a curator, some under neither. Let us treat, then, of the class of those persons who are under a tutor or curator; for we shall thus ascertain who are they who are not subject to either. And first of persons under a tutor.

1. Tutleage, as Servius has defined it, is an authority and power over a free person, given and permitted by the civil law, in order to protect one whose tender years prevent him defending himself.

2. Tutors are those who have this authority and power, and they take their name from the nature of their office; for they are called tutors, as being protectors (*tuitores*) and defenders, just as those who hae the care of the sacred edifices are called *æditui.*

3. Parents may give tutors by testament to such of their children as have not attained the age of puberty, and are under their power. And this, without any distinction, in the case of all sons and daughters. But grandfathers can only give tutors to their grandchildren when

these will not fall under the power of their father on the death of the grandfather. Hence, if your son is in your power at the time of your death, your grandchildren by that son cannot have a tutor appointed them by your testament, although they were in your power; because, at your decease, they will fall under the power of their father.

4. Posthumous children, as in many other respects, so also in this respet, are considered as already born before the death of their fathers; and tutors may be given by testament to posthumous children, as well as to children already born, provided that the posthumous children, had they been born in the lifetime of their father, would have been *sui heredes,* and in their father's power.

5. But if a father gives a tutor by testament to his emancipated son, the appointment must be confirmed by the sentence of the *præses* in all cases, that is, without inquiry.

XV. AGNATE TUTORSHIP

They to whom no tutor has been appointed by testament, have their *agnati* as tutors, by the law of the Twelve Tables, and such testators are called "legal tutors."

1. *Agnati* are those who are related to each other through males, that is, are related through the father, as, for instance, a brother by the same father, or the son of a brother, or the son of such a son; or, again, a father's brother, or a father's brother's son, or the son of such a son. But those who are related to us through the females are not *agnati,* but merely *cognati* by their natural relationship. This the son of a father's sister is related to you not by agnation, but by cognation, and you are also related to him by cognation; as children belong to the family of their father, and not to that of their mother.

XVI. CHANGE OF STATION

The *capitis deminutio* is a change of *status,* which may happen in three ways: for it may be the greatest *capitis deminutio,* or the less, also called the middle, or the least.

1. The greater *capitis deminutio* is, when a man loses both his citizenship and his liberty; as they do who by a terrible sentence are made "the slaves of punishment;" and freedmen, condemned to slavery for ingratitude towards their patrons; and all those who suffer themselves to be sold in order to share the price obtained.

2. The less or middle *capitis deminutio* is, when a man loses his citizenship, but retains his liberty; as is the case when any one is

forbidden the use of fire and water, or is deported to an island.

3. The least *capitis deminutio* is when a person's *status* is changed without forfeiture either of citizenship or liberty; as when a person *sui juris* become subject to the power of another, or a person *alieni juris* becomes independent.

4. A slave who is manumitted is not said to be *capite manutus,* as he has no *"caput,"* or civil existence.

5. Those whose dignity rather than their *status* is changed, do not suffer a *capitis deminutio,* as those, for instance, who are removed from the senatorial dignity.

6. In saying that the right of cognation remains in spite of a *capitis deminutio,* we were speaking only of the least *deminutio,* after which the cognation subsists. For, by the greater *deminutio,* as, for example, if one of the *cognati* becomes a slave, the right of cognation of wholly destroyed, so as not to be recovered even by manumission. So, too, the right of cognation is lost by the less or middle *deminutio,* as, for example, by deportation to an island.

7. The right to be tutor, which belongs to the *agnati,* does not belong to all at the same time, but to the nearest in degree only; or, if there are many in the same degree, then to all in that degree. Several brothers, for instance, in the same degree, are all equally called to be tutor.

XVII. PATRON GUARDIANSHIP

By the same law of the Twelve Tables, the tutelage of freedmen and freedwomen belongs to their patrons, and to the children of their patrons; and this tutelage is called legal tutelage, not that the law contains any express provision on the subject, but because it has been as firmly established by interpretation, as if it had been introduced by the express words of the law. For, as the law had ordered that patrons and their children should succeed to the inheritance of their freedmen or freedwomen who should die intestate, the ancients were of opinion that the intent of the law was that the tutelage also belonged to them; since the law which calls *agnati* to the inheritance, also appoints them to be tutors, because, in most cases, where the advantage of the succession is, there also ought to be the burden of the tutelage. We say "in most cases," because if a person below the age of puberty is manumitted by a female, she is called to the inheritance, although another person is tutor.

XX. APPOINTING OF TUTORS

If any one had no tutor at all, one was given him, in the city of Rome by the *prætor urbanus,* and a majority of the tribunes of the plebs, under the *lex Atilia;* in the provinces, by the *præsides* under the *lex Julia et Titia.*

1. Again, if a testamentary tutor had been appointed conditionally, or for a certain time, until the completion of the condition or arrival of the time fixed, another tutor might be appointed under the same laws. Also, if a tutor had been given unconditionally, yet, as long as no one had accepted the inheritance, as heir by the testament, another tutor might be appointed for the interval. But this office ceased when the condition was accomplished, when the time arrived, or the inheritance was entered upon.

2. If, again, a tutor was taken prisoner by the enemy, application could be made, under the same laws, for another tutor, whose office ceased when the first tutor returned from captivity; for on his return he resumed the tutelage by the *jus postliminii.*

3. But tutors have ceased to be appointed under these laws, since they have been appointed to pupils of either sex, first by the consuls, after inquiry into the case, and afterwards by the prætors under imperial constitutions. For above-mentioned laws required no security from the tutors for the safety of the pupil's property, nor did they contain any provisions to compel them to accept the office.

4. Under our present system tutors are appointed at Rome by the præfect of the city, or the præter, acocrding to his jurisdiction, and, in the provinces, by the *præsides* after inquiry; or by an inferior magistrate, at the command of the *præses,* if the property of the pupil is only small.

5. But by one of our constitutions, to do away with these distinctions of different persons, and to avoid the necessity of waiting for the order of the *præses,* we have enacted, that if the property of the pupil or adult does not exceed five hundred *soldi,* tutors or curators shall be appointed by the *defensores* of the city, acting in conjunction with the holy bishop, or by other public persons, that is, by the magistrates, or, in the city of Alexandria, by the judge; and legal security must be given according to the terms of the same constitution, that is to say, at the risk of those who receive it.

6. It is agreeable to the law of nature that the persons under

the age of puberty should be under tutelage, so that persons of tender years may be under the government of another.

7. As tutors administer the affairs of their pupils, they may be compelled to account, by the *actio tutela,* when their pupils arrive at puberty.

XXI. AUTHORITY OF TUTORS

In some cases it is necessary that the tutor should authorize the acts of the pupil, in others not. When, for instance, the pupil stipulates for something to be given him, the authorization of the tutor is not requisite; but if the pupil makes the promise, it is requisite; for the rule is, that pupils may make their condition better, but may not make it worse, without the authorization of their tutor. And therefore in all casses of reciprocal obligation, as in contracts of buying, selling, letting, hiring, bailment, deposit, if the tutor does not authorize the pupil to enter into the contract, the person who contracts with the pupil is bound, but the pupil is not bound.

1. Pupils, however, cannot, without the authorization of the tutor, enter on an inheritance, demand the possession of goods, or take an inheritance given by a *fideicommissum,* even though to do so would be to their gain, and could involve them in no risk.

2. A tutor who wishes to authorize any act, which he esteems advantageous to his pupil, should do so at once while the business is going on, and in person, for his authorization is of no effect if given afterwards or by letter.

3. When a suit is to be commenced between a tutor and his pupil, as the tutor cannot give authority with regard to his own case, a curator, and not, as formerly, a prætorian tutor, is appointed, with whose intervention the suit is carried on, and who ceases to be curator when the suit is determined.

XXII. FREEDOM FROM GUARDIANSHIP

Pupils, both male and femals, are freed from tutelage when they attain the age of puberty. The ancients judged of puberty in males, not only by their years, but also by the development of their bodies. But we, from a wish to conform to the purity of the present times, have thought it proper, that what seemed even to the ancients, to be indecent towards females, namely, the inspection of the body, should be thought no less so towards males; and, therefore, by our sacred constitution, we have enacted, that puberty in males should be considered to com-

mence immediately on the completion of their fourteenth year; while, as to females, we have preserved the wise rule adopted by the ancients, by which they are esteemed fit for marriage on the completion of their twelfth year.

1. Tutelage is also determined, if the pupil, before attaining the age of puberty, is either arrogated, or suffers deportation, or is reduced to slavery, or becomes a captive.

2. Again, if a person is appointed by testament to be tutor until a condition is accomplished, he ceases to be tutor on the accomplishment of the condition.

3. Tutelage ends also by the death of the tutor, or of the pupil.

4. When a tutor, by a *capitis deminutio,* loses his liberty or his citizenship, his tutelage is in every case at an end. But, if he undergo only the least *capitis deminutio,* as when a tutor gives himself in adoption, then only legal tutelage is ended, and not the other kinds; but any *capitis deminutio* of the pupil, even the least, always puts an end to the tutelage.

5. A tutor, again, who is appointed by testament to hold office during a certain time, lays down his office when the time is expired.

6. They also cease to be tutors who are removed from their office on suspicion, or who excuse themselves on good grounds from the burden of the tutelage, and rid themselves of it according to the rules we will give hereafter.

XXIII. CURATORSHHIP.

Males arrived at the age of puberty, and females of a marriageable age, receive curators, until they have completed their twenty-fifth year; for, although they have attained the age of puberty, they are still of an age which makes them unfit to protect their own interests.

1. Curators are appointed by the same magistrates who appoint tutors. A curator cannot be appointed by testament, but if appointed, he may be confirmed in his office by a decree of the prætor of *præses.*

2. No adolescent is obliged to receive a curator against his will, unless in case of a law-suit, for a curator may be appointed for a particular special purpose.

3. Madmen and prodigals, although past the age of twenty-five, are yet placed under the curatorship of their *agnati* by the law of the Twelve Tables. But, ordinarily, curators are appointed for them, at Rome, by the præfect of the city or the prætor; in the provinces, by the *præsides,* after inquiry into the circumstances has been made.

4. Persons who are of unsound mind, or who are deaf, mute, or subject to any perpetual malady, since they are unable to manage their own affairs, must be placed under curators.

5. Sometimes even pupils receive curators; as, for instance, when the legal tutor is unfit for the office; for a person who already has a tutor cannot have another given him; again, if a tutor appointed by testament, or by the prætor or *præses* is unfit to administer the affairs of his pupil, although there is nothing fraudulent in the way he administers them, it is usual to appoint a curator to act conjointly with him. It is also usual to assign curators in the place of tutors excused for a time only.

6. If a tutor is prevented by illness or otherwise from administering the affairs of his pupil, and his pupil is absent, or an infant, then the prætor or *præses* of the province will, at the tutor's risk, appoint by decree some one to be the agent of his pupil.

XXIV. SECURITY BY GUARDIANS

To prevent the property of pupils and persons placed under curators being wasted or destroyed by tutors or curators, the prætor sees that tutors and curators give security against such conduct. But this is not always necessary; a testamentary tutor is not compelled to give security, as his fidelity and diligence have been recognized by the testator. And tutors and curators appointed upon inquiry are not obliged to give security, because they have been chosen as being proper persons.

1. If two or more are appointed by testament, or by a magistrate, after inquiry, as tutors or curators, any of them, by offering security for the indemnification of the pupil or adolescent, may be preferred to his co-tutor or co-curator, so that he may either alone administer the property, or may oblige his co-tutor or co-curator to give security, if he wishes to obtain the preference, and become the sole administrator. He cannot directly demand security from his co-tutor or co-curator; he must offer it himself, and so give his co-tutor or co-curator the choice to receive or to give security. If no tutor or curator offers security, the person appointed by the testator to manage the property shall manage it; but if no such person be appointed, then the administration will fall to the person whom a majority of the tutors shall choose, as is provided for the prætorian edict. If the tutors disagree in their choice, the prætor must interpose. And in the same way, when several are appointed after inquiry by a magistrate, a majority is to determine who shall administer.

2. It should be observed that it is not only tutors and curators who are responsible for their administration to pupils, minors, and the other persons we have mentioned, but, as a last safeguard, a subsidiary action may be brought against the magistrate who has accepted the security as sufficient. The subsidiary action may be brought against a magistrate who has wholly omitted to take security, or has taken insufficient security; and the liability to this action, according to the responses of the jurisprudents as well as the imperial constitutions, extends also to the heirs of the magistrate.

3. The same constitutions also expressly enact, that tutors and curators who do not give security, may be compelled to do so by seizure of their goods as pledges.

4. Neither the præfect of the city, nor the prætor, nor the *præses* of a province, nor any one else to whom the appointment of tutors belongs, will be liable to this action, but only those whose ordinary duty is to exact the security.

XXV. DE EXCUSATIONIBUS TUTORUM VEL CURATORUM

Tutors and curators are excused on different grounds; most frequently on account of the number of their children, whether in their power or emancipated. For any one who at Rome has three children living, in Italy four, or in the provinces five, may be excused from being tutor or curator as from other offices, for the office of both a tutor and a curator is considered a public one. Adopted children will not avail the adopter, but though given in adoption are reckoned in favor of their natural father. Grandchildren by a son may be reckoned in the number, so as to take the place of their father, but not grandchildren by a daughter. It is only those children who are living that can be reckoned to excuse any one from being tutor or curator, and not those who are dead. It has been questioned, however, whether those who have perished in war may not be reckoned; and it has been decided, that those who die in battle may, but they only, for glory renders those immortal who have fallen for their country.

1. The Emperor Marcus declared by rescript in his *Semestria*, that a person engaged in administering the property of the *fiscus* is excused from being tutor or curator while his administration lasts.

2. Persons absent on the service of the state are excused from being tutors or curators; and if those who have already been appointed either as tutors or curators, should afterwards be absent on the public service, they are excused during their absence, and meanwhile curators

are appointed in their place. On their return, they must again take upon them the burden of the tutelage; and, according to Papinian's opinion, expressed in the fifth book of his answers, are not entitled to the privilege of a year's vacation, which is only allowed them when they are called to a new tutelage.

3. By a rescript of the Emperor Marcus, all persons invested with magisterial power may excuse themselves; but they cannot abandon the office of tutor, which they have already undertaken.

4. No tutor or curator can excuse himself by alleging a law-suit with the pupil or adult; unless the suit embraces the whole of the goods, or the property, or is for an inheritance.

5. Three tutelages or curatorships, if unsolicited, serve as an excuse from filling any other such office, while the holder continues to discharge duties. But the tutelage of several pupils, or the curatorship of an undivided property, as where the pupils or adults are brothers, is reckoned as one only.

6. Poverty is a sufficient excuse, when it can be proved such as to render a man incapable of the burden imposed upon him, according to the rescripts given both by the imperial brothers together, and by the Emperor Marcus singly.

7. Illness also, if it prevents a man from superintending his own affairs, affords a ground of excuse.

8. So, too, a person who cannot read must be excused, according to the rescript of the Emperor Antonious Pius; but persons who cannot read are sometimes considered capable of administering.

9. If it is through enmity that the father appoints by testament any one as tutor, this circumstance itself will afford a sufficient excuse; just as, on the other hand, they who have promised the father of the pupils to fill the office of tutor, cannot be excused.

10. That the tutor was unknown to the father of a pupil is not of itself to be admitted as a sufficient excuse, as is decided by a rescript of the imperial brothers.

11. Enmity against the father of the pupil or adult, if of a deadly character, and no reconciliation has taken place, is usually considered as an excuse from being tutor or curator.

12. So, too, he whose *status* has been called in question by the father of the pupil, is excused from the office of tutor.

13. Persons above seventy years of age may be excused from being tutors of curators. Persons under the age of twenty-five were formerly excused, but, by our constitution, they are now prohibited

from aspiring to these offices, so that excuses are become unnecessary. This constitution provides that neither pupils nor adults shall be called to a legal tutelage. For it is absurd that persons who are themselves governed, and are known to need assistance in the administration of their own affairs, should become the tutors or curators of others.

14. The same rule holds good also as to military persons. They cannot, even though they wish it, be admitted to the office of tutor or curator.

15. Grammarians, rhetoricians, and physicians at Rome, and those who exercise such profession in their own country, and are within the number authorized, are exempted from being tutors or curators.

16. If a person wishes to excuse himself, and has several excuses, even supposing some are not admitted, there is nothing to prevent him employing others, providing he does so within the prescribed time. Those who wish to excuse themselves are not to appeal, but whatever kind of tutors they may be, that is, however they may have been appointed, must offer their excuses within the fifty days next after they have known of their appointment, if they are within a hundred miles of the place when they were appointed. If they are at a greater distance they are allowed a day for every twenty miles, and thirty days besides; but the time should, as Scævola said, be so calculated as never to be less than fifty days in the whole.

1. The tutor who is appointed is considered as appointed for the whole patrimony.

18. A person who has discharged the office of tutor is not compelled against his will to become the curator of the same person; so much so, that although the father, after appointing a tutor by testament, adds that he also appoints the same person to be curator, the person so appointed if unwilling cannot be compelled to take the office of curator; so it has been decided by the rescript of the Emperors Severus and Antonius.

19. The same emperors have decided by rescript, that a husband appointed as curator to his wife may excuse himself from the office, even after he has intermeddled with her affairs.

20. If any one has succeeded by false allegations in getting himself excused from the office of tutor, he is not discharged from the burden of the office.

XXVI. SUSPECTED GUARDIANS

The right of accusing a suspected tutor or curator is derived from

th law of the Twelve Tables.

1. The power of removing suspected tutors belongs at Rome to the prætor; in the provinces to the *præsides*, or to the legate of the proconsul.

2. We have shown what magistrates may take cognizance of suspected persons: let us now inquire, what persons may become suspected. All tutors may become so, whether testamentary, or others; thus even a legal tutor may be accused. But what is the case with a patron? He, too, may be accused; but we must remember, that his reputation must be spared, although he be removed as suspected.

3. Let us inquire, by whom suspected persons may be accused. Now an accusation of this sort is in a measure public, that is, it is open to all. Nay, by a rescript of the Emperors Severus and Antoninus, even women are admitted to be accusers; but only those who are induced to do so through feelings of affection, as a mother, a nurse, or a grandmother, or a sister, who may all become accusers. But the prætor will admit any other woman to make the accusation, in whom he recognizes a real affection, and who, without overstepping the modesty of her sex, is impelled by this affection not to endure the pupil suffering harm.

4. No person below the age of puberty can bring an accusation against his tutor as suspected: but those who have attained that age may, under the advice of their near relations, accuse their curators. Such is the decision given in a rescript of the Emperors Severus and Antoninus.

5. A tutor is suspected who does not faithfully execute his trust, although perfectly solvent, as Julian writes, who also thinks that even before he enters on his office, a tutor may be removed, as suspected; and a constitution has been made in accordance with this opinion.

6. A suspected person, if removed on account of fraud, is infamous, but not if for neglect only.

7. If an action is brought against any one as suspected, his administration, according to Papinian, is suspended while the accusation is pending.

8. If a process is commenced against a tutor or curator, as suspected, and he dies while it is going on, the process is at an end.

9. If a tutor fails to appear, that a certain amount of maintenance may be fixed on for his pupil, it is provided by a rescript of the Emperors Severus and Antoninus, that the pupil shall be put into the possession of the effects of the tutor, and that after a curator has been

appointed, those things, which are perishable, may be sold. Therefore a tutor who does not afford maintenance to his pupil may be removed, as suspected.

10. But if the tutor appears, and denies that maintenance can be allowed in consequence of the smallness of the pupil's estate; if he says this falsely, he shall be handed over to the præfect of the city, to be punished, just as a person is handed over who has purchased a tutelage by bribery.

11. Also a freedman, who is proved to have been guilty of fraud, when acting as tutor to the son or grandson of the patron, is handed over the the præfect of the city to be punished.

12. Lastly, it must be known that they who are guilty of fraud in their administration, must be removed, althought they offer sufficient security. For giving security makes no change in the malevolent purpose of the tutor, but only procures him a longer opporunity of injuring the estate.

13. We also deem every man suspected, whose conduct is such that we cannot but suspect him. A tutor or curator who is faithful and diligent, is not to be removed, as a suspected person, merely because he is poor.

BOOK II. OF THINGS

I. DIVISIONS OF THINGS

In the preceding book we have treated of the law of persons. Let us now speak of things, which either are in our patrimony, or not in our patrimony. For some things by the law of nature are common to all; some are public; some belong to corporate bodies, and some belong to no one. Most things are the property of individuals, who acquire them in defferent ways, as will appear hereafter.

1. By the law of nature these things are common to mankind—the air, running water, the sea, and consequently the shores of the sea. No one, therefore, is forbidden to approach the seashore, provided that he respects habitations, monuments, and buildings, which are not, like the sea, subject only to the law of nations.

2. All rivers and ports are public; hence the right of fishing in a port, or in rivers, is common to all men.

3. The seashore extends as far as the greatest winter flood runs up.

4. The public use of the banks of a river is part of the law of nations, just as is that of the river itself. All persons, therefore, are as much at liberty to bring their vessels to the bank, to fasten ropes to the trees growing there, and to place any part of their cargo there, as to navigate the river itself. But the banks of a river are the property of those whose land they adjoin; and consequently the trees growing on them are also the property of the same persons.

5. The public use of the seashore, too, is part of the law of nations, as is that of the sea itself; and, therefore, any person is at liberty to place on it a cottage, to which he may retreat, or to dry his nets there, and haul them from the sea; for the shores may be said to be the property of no man, but are subject to the same law as the sea itself, and the sand or ground beneath it.

6. Among things belonging to a corporate body, not to individuals, are, for instance, buildings in cities, theaters, race-courses, and other similar places belonging in common to a whole city.

7. Things sacred, religious, and holy, belong to no one; for that which is subject to divine law is not the property of any one.

8. Things are sacred which have been duly consecrated by the pontiffs, as sacred buildings and offerings, properly dedicated to the service of God, which we have forbidden by our constitiution to be sold or mortgaged, except for the purposes of purchasing the freedom of captives. But, if any one consecrates a building, by his own authority, it is not sacred, but profane. But ground on which a sacred edifice has once been erected, even after the building has been destroyed, continues to be sacred, as Papinian also writes.

9. Any man at his pleasure makes a place religious by burying a dead body in his own ground; but it is not permitted to bury a dead body in land hitherto pure, which is held in common, against the wishes of a coproprietor. But when a sepulchre is held in common, any one coproprietor may bury in it, even against the wishes of the rest. So, too, if another person has the usufruct, the proprietor may not, without the consent of the usufructuary, render the place religious. But a dead body may be laid in a place belonging to another person, with the consent of the owner; and even if the owner only ratifies the act after the dead body has been buried, yet the place is religious.

10. Holy things also, as the walls and gates of a city, are to a certain degree subject to divine law, and therefore are not part of the property of any one. The walls of a city are said to be holy, inasmuch as any offence against them is punished capitally; so, too, those

parts of laws by which punishments are established against transgressors, we term sanctions.

11. Things become the property of individuals in various ways; of some we acquire the ownership by natural law, which, as we have observed, is also termed the law of nations; of others by the civil law. It will be most convenient to begin with the more ancient law; and it is very evident that the law of nature, established by nature at the first origin of mankind, is the more ancient, for civil laws could then only begin to exist when states began to be founded, magistrates to be created, and laws to be written.

12. Wild beasts, birds, fish and all animals, which live either in the sea, the air, or the earth, so soon as they are taken by any one, immediately become by the law of nations the property of the captor; for natural reason gives to the first occupant that which had no previous owner. And it is immaterial whether a man takes wild beasts or birds upon his own ground, or on that of another. Of course any one who enters the ground of another for the sake of hunting or fowling, may be prohibited by the proprietor, if he perceives his intention of entering. Whatever of this kind you take is regarded as your property, so long as it remains in your power, but when it has escaped and recovered its natural liberty, it ceases to be yours, and again becomes the property of him who captures it. It is considered to have recovered its natural liberty, if it has either escaped out of your sight, or if, though not out of your sight, it yet could not be pursued without great difficulty.

13. It has been asked, whether, if you have wounded a wild beast, so that it could be easily taken, it immediately becomes your property. Some have thought that it does become yours directly you wound it, and that it continues to be yours while you continue to pursue it, it then ceases to be yours, and again becomes the property of the first person who captures it. Others have thought that it does not become your property until you have captured it. We confirm this latter opinion, because many accidents may happen to prevent your capturing it.

14. Bees also are wild by nature. Therefore, bees that swarm upon your tree, until you have hived them are no more considered to be your property than the birds which build their nests on your tree; so, if any one hive them, he becomes their owner. Any one, too, is at liberty to take the honeycombs the bees may have made. But of course, if, before anything has been taken, you see any one entering on your land, you have a right to prevent his entering. A swarm which has

flown from your hive is still considered yours as long as it is in your sight and may easily be pursued; otherwise it becomes the property of the first person that takes it.

15. Peacocks, too, and pigeons are naturally wild; nor does it make any difference that they are in the habit of flying out and then returning again, for bees, which without doubt are naturally wild, do so too. Some persons have deer so tame, that they will go into the woods, and regularly again return; yet no one denies that deer are naturally wild. But, with respect to animals which are in the habit of going and returning, the rule has been adopted, that they are considered yours as long as they have the intention of returning, but if they cease to have this intention, they cease to be yours, and become the property of the first person that takes them. These animals are supposed to have lost the intention, when they have lost the habit, of returning.

16. But fowls and geese are not naturally wild, which we may learn from there being particular kinds of fowls and geese which we term wild. And, therefore, if your geese or fowls should be frightened, and take flight, they are still regarded as yours wherever they may be, although you may have lost sight of them; and whoever detains such animals with a view to his own profit, commits a theft.

17. The things we take from our enemies become immediately ours by the law of nations, so that even freemen thus become our slaves; but if they afterwards escape from us, and return to their own people, they regain their former condition.

18. Precious stones, gems, and other things, found upon the seashore, become immediately, by natural law, the property of the finder.

19. All that is born of animals of which you are the owner, becomes by the same law your property.

20. Moreover, the alluvial soil added by a river to your land becomes yours by the law of nations. Alluvion is an imperceptible increase; and that is added so gradually that no one can perceive how much is added at any one moment of time.

21. But if the violence of a river should bear away a portion of your land and unite it to the land of your neighbor, it undoubtedly still continues yours. If, however, it remains for a long united to your neighbor's land, and the trees, which it swept away with it, take root in his ground, these trees from that time become part of your neighbor's estate.

22. When an island is formed in the sea, which rarely happens,

it is the property of the first occupant; for before occupation, it belongs to no one. But when an island is formed in a river, which frequently happens, if it is placed in the middle of it, it belongs in common to those who possess the lands near the banks on each side of the river, in proportion to the extent of each man's estate adjoining the banks. But, if the island is nearer to one side than the other, it belongs to those persons only who possess lands contiguous to the bank on that side. If a river divides itself and afterwards unites again, thus giving to any one's land the form of an island, the land still continues to belong to the person to whom it belonged before.

23. If a river, entirely forsaking its natural channel, begins to flow in another direction, the old bed of the river belongs to those who possess the lands adjoining its banks, in proportion to the extent that their respective estates adjoin the banks. The new bed follows the condition of the river, that is, it becomes public. And, if after some time the river returns to its former channel, the new bed again becomes the property of those who possess the lands contiguous to its banks.

24. The case is quite different if any one's land is completely inundated; for the inundation does not alter the nature of the land, and therefore, when the waters have receded, the land is indisputably the property of its former owner.

25. When one man has made anything with materials belonging to another, it is often asked which, according to natural reason, ought to be considered the proprietor, whether he who gave the form, or he rather who owned the materials. For instance, suppose a person has made wine, oil, or wheat, from the grapes, olives, or ears of corn belonging to another; has cast a vessel out of gold, silver, or brass, belonging to another; has made mead with another man's wine and honey; has composed a plaster, or eye-salve, with another man's medicaments; has made a garment with another man's wool; or a ship, or a bench, with another man's timber. After a long controversy between the Sabinians and Proculians, a middle opinion has been adopted based on the following distinction. If the thing made can be reduced to its former rude materials, then the owner of the materials is also considered the owner of the thing made; but, if the thing cannot be so reduced, then he who made it is the owner of it. For example, a vessel when cast, can easily be reduced to its rude materials of brass, silver, or gold; but wine, oil, or wheat, cannot be reconverted into grapes, olives, or ears of corn; nor can mead be resolved into wine and honey.

But, if a man has made anything, partly with his own materials and partly with the materials of another, as if he has made mead with his own wine and another man's honey, or a plaster or eye-salve, partly with his own, and partly with another man's medicaments, or a garment with his own and also with another man's wool, then in such cases, he who made the thing is undoubtedly the proprietor; since he not only gave his labor, but furnished also a part of the materials.

26. If, however, any one has woven purple belonging to another into his own vestment, the purple, although the more valuable, attaches to the vestment as an accession, and its former owner has an action of theft and a condiction against the person who stole it from him, whether it was he or some one else who made the vestment. For although things which have perished cannot be reclaimed by vindication, yet this gives ground for a condiction against the thief, and against many other possessors.

27. If materials belonging to two persons are mixed together by their mutual consent, whatever is thence produced is common to both, as if, for instance, they have intermixed their wines, or melted together their gold or silver. And although the materials are different which are employed in the admixture, and thus a new substance is formed, as when mead is made with wine and honey, or electrum by fusing together gold and silver, the rule is the same; for in this case the new substance is undoubtedly common. And if it is by chance, and not by intention of the proprietors, that materials, whether similar or different, are mixed together, the rule is still the same.

28. If the wheat of Titius is mixed with yours, when this takes place by mutual consent, the mixed heap belongs to you in common; because each body, that is, each grain, which before was the property of one or other of you, has by your mutual consent been made your common property; but, if the intermixture were accidental, or made by Titius without your consent, the mixed wheat does not then belong to you both in common; because the grains still remain distinct, and retain their proper substance. The wheat in such a case no more becomes common to you both, than a flock would be, if the sheep of Titius were mixed with yours; but, if either of you keep the whole quantity of mixed wheat, the other has a real action for the amount of wheat belonging to him, but it is in the province of the judge to estimate the quality of the wheat belonging to each.

29. If a man builds upon his own ground with the materials of another, he is considered the proprietor of the building, because every-

thing built on the soil accedes to it. The owner of the materials does not, however, cease to be owner, only while the building stands he cannot claim the materials, or demand to have them exhibited, on account of the law of the Twelve Tables, providing that no one is to be compelled to take away the *tignum* of another which has been made part of his own building, but that he may be made, by the action *de tigno injuncto,* to pay double the value; and under the term *tignum* all materials for building are comprehended. The object of this provision was to prevent the necessity of buildings being pulled down. But if the building is destroyed from any cause, then the owner of the materials, if he has not already obtained the double value, may reclaim the materials, and demand to have them exhibited.

30. On the contrary, if any one builds with his own materials on the ground of another, the building becomes the property of him to whom the ground belongs. But in this case the owner of the property, because he is presumed to have voluntarily parted with them, that is, if he knew he was building upon another's land; and, therefore, if the building should be destroyed, he cannot, even then, reclaim the materials. Of course, if the person who builds is in possession of the soil, and the owner of the soil claims the building, but refuses to pay the price of the materials and the wages of the workmen, the owner may be repelled by an exception of *dolus malus,* provided the builder was in possession *bona fide.* For if he knew that he was not the owner of the soil, it may be said against him that he was wrong to build on ground which he knew to be the property of another.

31. If Titius places another man's plant in ground belonging to himself, the plant will belong to Titius; on the contrary, if Titius places his own plant in the ground of Mævius, the plant will belong then to Mævius—that is if, in either case the plant has taken root; for before it has taken root, it remains the property of its former owner. But from the time it has taken root, the property in it is changed; so much so, that if the tree of a neighbor presses so closely on the ground of Titius as to take root in it, we pronounce that the tree becomes the property of Titius. For reason does not permit that a tree should be considered the property of any one else than of him in whose ground it has taken root; and, therefore, if a tree, planted near a boundary extends its roots into the lands of a neighbor, it becomes common.

32. As plants rooted in the earth accede to the soil, so, in the same way, grains of wheat which have been sown are considered to accede to the soil. But as he who has built on the ground of another may,

according to what we have said, defend himself by an exception of *dolus malus,* if the proprietor of the ground claims the building, so also he may protect himself by the aid of the same exception, who, at his own expense and acting *bona fide,* has sown another man's land.

33. Written characters, although of gold, accede to the paper or parchment on which they are written, just as whatever is built on, or sown in, the soil, accedes to the soil. And, therefore, if Titius has written a poem, a history, or an oration, on your paper or parchment, you, and not Titius, are the owner of the written paper. But if you claim your books or parchments from Titius, but refuse to defray the cost of the writing, then Titius can defend himself by an exception of *dolus malus;* that is if it was *bona fide* that he obtained possession of the papers or parchments.

34. If a person has painted on the tablet of another, some think that the tablet accedes to the picture, others, that the picture, of whatever quality it may be, accedes to the tablet. It seems seems to us the better opinion, that the tablet should accede to the picture; for it is ridiculous that a painting of Apelles or Parrhasius should be but the accessory of a thoroughly worthless tablet. But if the owner of the tablet is in possession of the picture, the painter, should he claim it from him, but refuse to pay the value of the tablet, may be repelled by the exception of *dolus malus.* If the painter is in possession of the picture, the law permits the owner of the tablet to bring a *utilis actio* against him; and in this case, if the owner of the tablet does not pay the cost of the picture, he may also be repelled by an exception of *dolus malus;* that is if the painter obtained possession *bona fide.* If the tablet has been stolen, whether by the painter or any one else, the owner of the tablet may bring an action of theft.

35. If any person has *bona fide* purchased land from another, whom he believed to be the true owner, when in fact he was not, or has *bona fide* acquired it from such person by gift or by other good title, natural reason demands that the fruits which he has gathered shall be his in return for his care and culture. And, therefore, if the real owner afterwards appears and claims his land, he can have no action for fruits which the possessor has consumed. But the same allowance is not made to him who has knowingly been in possession of another's estate, and, therefore, he is compelled to restore, together with the lands, all the fruits, although they may have been consumed.

36. The usufructuary of land is not owner of the fruits until he has himself gathered them; and, therefore, if he should die while the

fruits, although ripe, are yet ungathered, they do not belong to his heirs, but are the property of the owner of the soil. And nearly the same may be said of the *colonus*.

37. In the fruits of animals are included their young, as well as their milk, hair and wool; and, therefore, lambs, kids, calves, colts, and young pigs, immediately on their birth become, by the law of nature, the property of the usufructory, but the offspring of a female slave is not considered a fruit, but belongs to the owner of the property. For it seemed absurd that man should be reckoned as a fruit, when it is for man's benefit that all fruits are provided by nature.

38. The usufructuary of a flock ought to replace any of the flock that may happen to die, by supplying the deficiency out of the young, as also Julian was of opinion. So, too, the usufructuary ought to supply the place of dead vines or trees. For he ought to cultivate with care, and to use everything as a good father of a family would use it.

39. The Emperor Hadrian, in accordance with natural equity, allowed any treasure found by a man in his own land to belong to the finder, as also any treasure found by chance in a sacred or religious place. But treasure found without any express search, but by mere chance, in a place belonging to another, he granted half to the finder, and half to the proprietor of the soil. Consequently, if anything is found in a place belonging to the emperor, half belongs to the finder, and half to the emperor. And hence it follows, that if a man finds anything in a place belonging to the *fiscus*, the public, or a city, half ought to belong to the finder, and half to the *fiscus* or the city.

40. Another mode of acquiring things according to natural law is traditional; for nothing is more conformable to natural equity than that the wishes of a person, who is desirous to transfer his property to another, should be confirmed; and, therefore, corporeal things, of whatever kind, may be so passed by tradition, and when so passed by their owner, are made the property of another. In this way are alienated stipendiary and tributary lands, that is, lands in the provinces, between which and Italian lands there is now, by our constitution, no difference, so that when tradition is made of them for purpose of a gift, a marriage portion, or any other object, the property in them is undoubtedly transferred.

41. But things sold and delivered are not acquired by the buyer until he has paid the seller the price, or satisfied him in some way or other, as by procuring some one to be security, or by giving a pledge. And, although this is provided by a law of the Twelve Tables, yet it

may be rightly said to spring from the law of nations, that is, the law of nature. But if the seller has accepted the credit of the buyer, the thing then becomes immediately the property of the buyer.

42. It is immaterial whether the owner deliver the thing himself, or some one else by his desire.

43. Hence, if any one is instructed by an owner with the uncontrolled administration of all his goods and he sells and delivers anything which is a part of these goods, he passes the property in it to the person who receives the thing.

44. Sometimes, too, the mere wish of the owner, without tradition, is sufficient to transfer the property in a thing, as when a person has lent, or let to you anything, or deposited anything with you, and then afterwards sells or gives it to you. For, although he has not delivered it to you for the purpose of the sale or gift, yet by the mere fact of his consenting to it becoming yours, you instantly acquire the property in it, as fully as if it had actually been delivered to you for the express purpose of passing the property.

45. So, too, any one, who has sold goods deposited in a warehouse, as soon as he has handed over the keys of the warehouse to the buyer, transfers to the buyer the property in the goods.

46. Nay, more, sometimes the intenton of an owner, although directed only towards an uncertain person, transfers the property in a thing. For instance, when the prætors and consuls throw their largesses to the mob, they do not know what each person in the mob will get; but as it is their intention that each should get what he gets, they make what each gets immediately belong to him.

47. Accordingly, it is true to say that anythng which is seized on, when abandoned by its owners, becomes the property of the person who takes possession of it. And anything is considered as abandoned which its owner has thrown away with a wish no longer to have it as a part of his property, as it therefore immediately ceases to belong to him.

48. It is otherwise with respect to things thrown overboard in a storm, to lighten a vessel; for they remain the property of their owners; as it is evident that they were not thrown away through a wish to get rid of them, but that their owners and the ship itself might more easily escape the dangers of the esa. Hence, any one who, with a view to profit himself by these, takes them away when washed on shore, or found at sea, is guilty of theft. And much the same may be said as

to things which drop from a carriage in motion without the knowledge of their owners.

II. INCORPOREAL THINGS

Certain things, again, are corporeal, others incorporeal.

1. Corporeal things are those which are by their nature tangible, as land, a slave, a garment, gold, silver, and other things innumerable.

2. Incorporal things are those which are not tangible, such as are those which consist of a right, as an inheritance, a usufruct, use, or obligations in whatever way contracted. Nor does it make any difference that things corporeal are contained in an inheritance; fruits, gathered by the usufructuary, are corporeal; and that which is due to us by virtue of an obligation, is generally a corporeal thing, as a field, a slave, or money; while the right of inheritance, the right of usufruct, and the right of obligation, are incorporeal.

3. Among things incorporeal are the rights over estates, urban and rural, which are also called servitudes.

III. SERVITUDES

The servitudes of rural immoveables are, the right of passage, the right of passage for beasts or vehicles, the right of way, the right of passage for water. The right of passage is the right of going or passing for a man, not of driving beasts or vehicles. The right of passage for beasts or vehicles is the right of driving beasts or vehicles over the land of another. So a man who has the right of passage simply has not the right of passage for beasts or vehicles; but if he has the latter right he has the former, and he may use the right of passing without having any beasts with him. The right of way is the right of going, of driving beasts or vehicles, and of walking; for the right of way includes the right of passage, and the right of passage for beasts or vehicles. The right of passage for water is the right of conducting water through the land of another.

1. The servitudes of urban immoveables are those which appertain to buildings, and they are said to be servitudes of urban immoveables, because we term all edifices urban immoveables, although really built in the country. Among these servitudes are the following: that a person has to support the weight of an adjoining house, that a neighbor should have the right of inserting a beam into his wall, that he has to receive or not to receive the water that drops from the roof, or that runs from the gutter of another man's house on to his building,

or into his court or drain; or that he is not to raise his house higher, or not to obstruct his neighbor's lights.

2. Some think that among the servitudes of rural estates are rightly included the right of drawing water, of watering cattle, of feeding cattle, of burning lime or digging sand.

3. These servitudes are called the servitudes of immoveables, because they cannot exist without immoveables. For no one can acquire or owe a servitude of a rural or urban immoveable, unless he has an immoveable belonging to him.

4. If any one wishes to create a right of this sort in favor of his neighbor, he must effect it by agreements and stipulations. A person can also, by testament, oblige his heir not to raise his house higher, not to obstruct his neighbor's lights, to permit a neighbor to insert a beam into his wall, or to receive the water from an adjoining roof; or, again, he may oblige his heir to allow a neighbor to go across his land, or to drive beasts or vehicles, or to conduct water across it.

IV. USUFRUCT

Usufruct is the right of using, and taking the fruits of things belonging to others, so long as the substance of the things used remains. It is a right over a corporeal thing, and if this thing perish, the usufruct itself necessarily perishes also.

1. The usufruction is detached from the property; and this separation takes place in many ways; for example, if the usufruct is given to any one as a legacy; for the heir has then the bare ownership, and the legatee has the usufruct; conversely, if the estate is given as a legacy, subject to the deduction of the usufruct, the legatee has the bare ownership, and the heir has the usufruct. Again, the usufruct may be given as a legacy to one person, and the estate minus this usufruct may be given to another. If any one wishes to constitute a usufruct otherwise than by testament, he must effect it by pacts and stipulations. But, lest the property should be rendered wholly profitless by the usufruct being for ever detached, it has been thought right that there should be certain ways in which the usufruct should become extinguished, and revert to the property.

2. A usufruct may be constituted not only of lands and buildings, but also of slaves, of beasts of burden, and everything else except those which are consumed by being used, for they are susceptible of a usufruct neither by natural nor by civil law. Among these things are wine, oil, garments, and we may almost say coined money; for it, too,

is in a manner consumed by use, as it continually passes from hand to hand. But the senate, thinking such a measure would be useful, has enacted that a usufruct even of these things may be constituted, if sufficient security be given to the heir; and, therefore, if the usufruct of money is given to a legatee, the money is considered to be given to him in complete ownership; but he has to give security to the heir for the repayment of an equal sum in the event of his death or his undergoing a *capitis deminutio.* All other things, too, of the same kind are delivered to the legatee so as to become his property; but their value is estimated and security is given for the payment of the amount at which they are valued, in the event of the legatee dying or undergong a *capitas deminutio.* The senate has not then, to speak strictly, created a usufruct of these things, for that was impossible, but, by requiring security, has established a right analogous to a usufruct.

3. The usufruct terminates by the death of the usufructuary, by two kinds of *capitis deminutio,* namely, the greatest and the middle, and also by not being used according to the manner and during the time fixed; all which points have been decided by our constitution. The usufruct is also terminated if the usufructuary surrenders it to the owner of the property (a cession to a stranger would not have this effect); or, again, by the usufructuary acquiring the property, which is called consolidation. Again, if a building is consumed by fire, or thrown down by an earthquake, or falls down through decay, the usufruct of it is necessarily destroyed, nor does there remain any usufruct due even of the soil on which it stood.

4. When the usufruct is entirely extinguished, it is reunited to the property; and the person who had the bare ownership begins thenceforth to have full power over the thing.

V. USE AND HABITATION

The naked use is constituted by the same means as the usufruct; and is terminated by the same means that make the usufruct to cease.

1. The right of use is less extensive than that of usufruct; for he who has the naked use of lands, has nothing more than the right of taking herbs, fruit, flowers, hay, straw, and wood, sufficient for his daily supply. He is permitted to establish himself upon the land, so long as he neither annoys the owner, nor hinders those who are engaged in the cultivation of the soil. He cannot let, or sell, or give gratuitously his right to another, while a usufructuary may.

2. He who has the use of a house, has nothing more than the right

of inhabiting it himself; for he cannot transfer this right to another; and it is not without considerable doubt that it has been thought allowable that he should receive a guest in the house, but he may live in it with his wife and children, and freedmen, and other free persons who may be attached to his service no less than his slaves are. A wife, in the same way, if it is she who has the use of the house, may live in it with her husband.

3. So, too, he who has the use of a slave, has only the right of himself using the labor and services of the slave: for he is not permitted in any way to transfer his right to another. And it is the same with regard to beasts of burden.

4. If the use of a flock or herd, as, for instance, of a flock of sheep, be given as a legacy, the person who has the use cannot take the milk, the lambs, or the wool, for these are among the fruits. But he may certainly make use of the flock to manure his land.

5. If the right of habitation is given to any one, either as a legacy or in any other way, this does not seem a use or a usufruct, but a right that stands as it were by itself. From a regard to what is useful, and conformably to an opinion of Marcellus, we have published a decision, by which we have permitted those who have this right of habitation, not only themselves to inhabit the place over which the right extends, but also to let to others the right of inhabiting it.

6. Let it suffice to have said thus much concerning servitudes, usufruct, use and habitation. We shall treat of inheritances and obligations in their proper places. We have already briefly explained how things are acquired by the law of nations; let us now examine how they are acquired by the civil law.

VI. TITLE THROUGH POSSESSION

By the civil law it was provided, that if any one by purchase, gift, or any other legal means, had *bona fide* received a thing from a person who was not the owner, but whom he thought to be so, he should acquire this thing by use if he held it for one year, if it were moveable, wherever it might be, or for two years, if it were an immoveable, but this if it were in the *solum Italicum;* the object of this provision being to prevent the ownership of things remaining in uncertainly. Such was the decision of the ancients, who thought the times we have mentioned sufficient for owners to search for their property, but we have come to a much better decision, from a wish to prevent owners being despoiled of their property too quickly, and to prevent the benefit of this mode of

acquisition being confined to any particular locality. We have, accordingly, published a constitution providing that moveables be acquired by a use extending for three years, and immoveables by the "possession of long time," that is, ten years for person present, and twenty years for persons absent; and that by these means, provided a just cause of possession precede, the ownership of things may be acquired, not only in Italy, but in every country subject to our empire.

1. Sometimes, however, although the thing be possessed with perfect good faith, yet use, however long, will never give the property: as, for instance, when the possession is of a free person, a thing sacred or religious, or a fugitive slave.

2. Things stolen, or seized by violence, cannot be acquired by use, although they have been possessed *bona fide* during the length of time above prescribed; for such acquisition is prohibited, as to things stolen, by the law of the Twelve Tables, and by the *lex Atinia;* as to things seized by violence, by the *lex Julia et Plautia.*

3. When it is said that the acquisition by use of things stolen or seized by violence is prohibited by these laws, it is not meant that the thief himself, or he who possesses himself of the thing by violence, is unable to acquire the property, for another reason prevents them, namely, that their possession is *mala fide;* but no one else, although he has in good faith purchased or taken away from them, is able to acquire the property in use. Whence, as to moveables, it does not often happen that a *bona fide* possessor gains the property in them by use. For whenever any one sells, or makes over for any other reason, a thing belonging to another, it is a theft.

4. Sometimes, however, it is otherwise; for, if an heir, supposing a thing lent or let to the deceased, or deposited with him, to be a part of the inheritance, sells or gives it as a gift or dowry to a person who receives it *bona fide,* there is no doubt that the person receiving it may acquire the property in it by use; for the thing is not tainted with the vice of theft, as the heir who has *bona fide* alienated it as his own, has not been guilty of a theft.

5. So if the usufructuary of a female slave sells or gives away her child, believing it to be his property, he does not commit theft; for there is no theft without the intention to commit theft.

6. It may also happen in various other ways, that a man may transfer a thing belonging to another without committing a theft, so that the possessor acquires the property in it by use.

7. As to moveables, it may more easily happen that a person may,

without violence, take possession of a place vacant by the absence or negligence of the owner, or his having died without a successor; and although his possession is *mala fide,* since he knows that he has seized on land not belonging to him, yet if he transfers it to a person who receives it *bona fide,* this person will acquire the property in it by long possession, as the thing he receives has neither been stolen nor seized by violence. The opinion of the ancients, who thought that there could be a theft of a piece of land or a place, is now abandoned, and there are imperial constitutions which provide that no possessor of an immoveable shall be deprived of the benefit of a long and undoubted possession.

8. Sometimes even a thing stolen or seized by violence may be acquired by use; for instance, if it has come back into the power of its owner, for then, the vice being purged, the acquisition by use may take place.

9. Things belonging to our *fiscus* cannot be acquired by use. But Papinian has given his opinion that if, before *bona vacantia* have been reported to the *fiscus, a bona fide* purchaser receives any of them, he can acquire the property by use. And the Emperor Antoninus Pius, and the Emperors Severus and Antoninus, have issued rescripts in accordance with this opinion.

10. Lastly, it is to be observed that a thing must be tainted with no vice, that the *bona fide* purchaser or person who possesses it from any other just cause may acquire it by use.

11. But if a mistake is made as to the cause of possession, and it is wrongly supposed to be just, there is no usucapion. As, for instance, if any one possesses in the belief that he has bought, when he has not bought, or that he has received a gift, when no gift has really been made to him.

12. Long possesssion, which has begun to reckon in favor of the deceased, is continued in favor of the heir or *bonorum possessor,* although he may know that the immoveable belongs to another person; but if the deceased commenced his possession *mala fide,* the possession does not profit the heir or *bonorum possessor,* although ignorant of this. And our constitution has enacted the same with respect to usucapions, in which the benefit of possession is to be in like manner continued.

13. Between the buyer and the seller, too, the Emperors Severus and Antonius have decided by rescript that their several times of possession shall be reckoned together.

14. It is provided by an edict of the Emperor Marcus, that a

person who has purchased from the *fiscus* a thing belonging to another person, may repel the owner of the thing by an exception, if five years have elapsed since the sale. But a constitution of Zeno of sacred memory has completely protected those who receive anything from the *fiscus* by sale, gift, or any other title, by providing that they themselves are to be at once secure, and made certain of success, whether they sue or are themselves sued, in an action. While they who think that they have a good ground of action as owners or mortgagees of the things alienated, may bring an action against the sacred treasury within four years. An imperial constitution, which we ourselves have recently published, extends to those who have received as a gift anything from our palace, or that of the empress, the provisions of the constitution of Zeno relative to the alienations of the *fiscus*.

X. MAKING WILLS

The word testament is derived from *testatio mentis;* it testifies the determination of the mind.

1. That nothing belonging to antiquity may be altogether unknown, it is necessary to observe, that formerly there were two kinds of testaments in use: the one was employed in times of peace, and was named *calatic comitiis*, the other was employed at the moment of setting out in battle, and was termed *procinctum*. A third species was afterwards added, called *per æs libram,* being effected by mancipation, that is, an imaginary sale in the presence of five witnesses, and the *libripens,* all citizens of Rome, above the age of puberty, together with him who was called the *emptor familiæ*. The two former kinds of testaments fell into disuse even in ancient times; and that made *per æs et libram* also, although it has continued longer in practice, has now in part ceased to be made use of.

2. These three kinds of testament belonged to the civil law, but afterwards another kind was introduced by the edict of the prætor. By the *jus honorarium* no sale was necessary but the seals of seven witnesses were sufficient. The seals of witnesses were not required by the civil law.

3. But when the progress of society and the imperial constitutions had produced a fusion of the civil and the prætorian law, it was established that the testament should be made all at one time, in the presence of seven witnesses (two points required by the civil law), with the subscription of the witnesses (a formality introduced by the constitutions), and with their seals appended, according to the edict

of the prætor. Thus the law of testament seems to have had a triple origin. The witnesses, and their presence at one continuous time for the purpose of giving the testament the requisite formality, are derived from the civil law; the subscriptions of the testator and witnesses, from the imperial constitutions; and the seals of the witnesses and their number, from the edict of the prætor.

4. To all these formalities we have enacted by our constitution, as an additional security for the genuineness of testaments, and to prevent fraud, that the name of the heir shall be written in the handwriting either of the testator or of the witnesses; and that everything shall be done according to the tenor of that constitution.

5. All the witnesses may seal the testament with the same seal; for, as Pomponius says, what if the engraving on all seven seals were the same? And a witness may use a seal belonging to another person.

6. Those persons can be witnesses with whom there is *testamenti factio.* But women, persons under the age of puberty, slaves, madmen, dumb persons, deaf persons, prodigals restrained from having their property in their power, and persons declared by law to be worthless and incompetent to witness, cannot be witnesses.

7. A witness, who was thought to be free at the time of making the testament, was afterwards discovered to be a slave, and the Emperor Hadrian, in his rescript to Catonius Versus, and afterwards the Emperors Severus and Antoninus by rescript, declared, that they would aid such a defect in a testament, so that it should be considered as valid as if made quite regularly; since, at the time when the testament was sealed, this witness was commonly considered a free man, and there was no one to contest his *status.*

8. A father, a son under his power, or two brothers under the power of the same father, may be witnesses to the same testament; for nothing prevents several persons of the same family being witnesses in a matter which only concerns a stranger.

9. But no person under power of the testator can be a witness. And if a *filiusfamilias* makes a testament giving his *castrense peculium,* after leaving the army, neither his father, nor any one in power of his father, can be a witness. For, in this case, the law does not allow the testimony of a member of the same family.

10. No person instituted heir, nor any one in subjection to him, nor his father, in whose power he is nor his brothers under power of the same father, can be witnesses; for the whole business of making a testament is in the present day considered a transaction between the

testator and the heir. But formerly there was great confusion; for although the ancients would never admit the testimony of the *familiæ emptor,* nor of any one connected with him by the ties of *patria potestas,* yet they admitted that of the heir, and of persons connected with him by the ties of *patria potestas,* only exhorting them not to abuse their privilege. We have corrected this, making illegal what they endeavored to prevent by persuasion. For, in imitation of the old law respecting the *familiæ emptor,* we refuse to permit the heir, who now represents the ancient *familiæ emptor,* or any of those connected with the heir by the tie of *patria potestas,* to be, so speak, witness in their own behalf; and accordingly we have not suffered the constitutions of preceding emperors on the subject to be inserted in our code.

11. But we do not refuse the testimony of legatees, or persons taking *fideicommissa,* or of persons connected with them, because they do not suceed to the rights of the deceased. On the contrary, by one of our constitutions we have specially granted them this privilege; and we give it still more readily to persons in their power, and to those in whose power they are.

12. It is immaterial, whether a testament be written upon a tablet, upon paper, parchment, or any other substance.

13. Any person may execute any number of duplicates of the same testament, each, however, being made with prescribed forms. This may be sometimes necessary; as, for instance, when a man who is going a voyage is desirous to carry with him, and also to leave at home, a memorial of his last wishes; or for any other of the numberless reasons that may arise from the various necessities of mankind.

14. Thus much may suffice concerning written testaments. But if any one wishes to make a testament, valid by the civil law, without writing, he may do so, in the presence of seven witnesses, he verbally declares his wishes, and this will be a testament perfectly valid according to the civil law, and confirmed by imperial constitutions.

BOOK III.

I. INTESTATE SUCCESSION

A person dies intestate, who either has made no testament at all, or has made one not legally valid; or if the testament he has made is revoked, or made useless; or if no one becomes heir under it.

1. The inheritances of intestates, by the law of the Twelve Tables,

belong in the first place to the *sui heredes.*

2. And, as we have observed before, those as *sui heredes* who, at the death of the deceased, were under his power; as a son or a daughter, a grandson or a granddaughtr by a son, a great-grandson or great-granddaughter by a grandson of a son; nor does it make any difference whether these children are natural or adopted. We must also reckon among them those, who, though not born in lawful wedlock, nevertheless, according to the tenor of the imperial constitutions, acquire the rights of *sui heredes* by being presented to the *curiæ* of their cities; as also those to whom our own constitutions refer, which enact that, if any person has lived with a woman not originally intending to marry her, but whom he is not prohibited to marry, and shall have children by her, and shall afterwards, feeling towards her the affection of a husband, enter into an act of marriage with her, and have by her sons or daughters, not only those born after the settlement of the dowry shall be legitimate, and in the power of the father, but also those born before, who gave occasion to the legitimacy of the children born after. And this law shall obtain, although no children are born subsequent to the making of the act of dowry, or those born are all a great-grandson or great-granddaughter, is not reckoned the *sui heredes,* unless the person preceding them in degree has ceased to be under the power of the decedant, either by death, or some other means, as by emancipation. For, if a son, when the grandfather died, was under the power of his father, the grandson cannot be *suus heres* of his grandfather; and so with regard to all other descendents. Posthumous children, also, who would have been under the power of their father, if they had been born in his lifetime, are *sui heredes.*

3. *Sui heredes* may become heirs, without their knowledge, and even though insane; for in every case in which inheritances may be acquired without our knowledge, they may also be acquired by the insane. At the death of the father, ownership in an inheritance is at once continued; accordingly, the authority of a tutor is not necessary, as inheritances may be acquired by *sui heredes* without their knowledge: neither does an insane person acquire by assent of his curator, but by operation of law.

4. But sometimes a child becomes a *suus heres,* although he was not under power at the death of his parent; as when a person returns from captivity after the death of his father. He is then made a *suus heres* by the *jus postliminii.*

5. On the contrary, it may happen that a child who, at the death

of his parent, was under his power, is not his *suus heres*: as when a parent after his decease, is adjudged to have been guilty of treason. and his memory is thus made infamous. He can then have no *suus heres,* as it is the *fiscus* that succeeds to his estate. In this case it may be said that there has in law been a *suus heres,* but that he has ceased to be so.

6. A son, or a daughter, and a grandson or granddaughter by another son, are called equally to the inheritance; nor does the nearer in degree exclude the more remote; for it seems just that grandsons and granddaughters should succeed in the place of their father. For the same reason, a grandson or granddaughter by a son, and a great-grandson or great-granddaughter by a grandson, are called together. And since grandsons and granddaughters, great-grandsons and great-granddaughters, succeed in place of their parent, it appeared to follow that inheritances should not be divided *per capita,* but *per stirpes;* so that a son should possess one-half, and the grandchildren, whether two or more, of another son, the other half of the inheritance. So, where there were grandchildren by two sons, one or two perhaps by the one, and three or four by the other, the inheritance will belong, half to the grandchild or the two grandchildren by the one son, and half to the three or four grandchildren by the other son.

7. When it is asked whether such a person is a *suus heres,* we must look to the time at which it was certain that the deceased died without a testament, including therein the case of the testament being abandoned. Thus, if a son is disinherited and a stranger is instituted heir, and after the death of the son it becomes certain that the instituted heir will not be heir, either because he is unwilling or unable to be so, in this case the grandson of the deceased becomes the *suus heres* of his grandfather; for, at the time when it was certain that the deceased died intestate, there exists only the grandchild, and of this there can be no doubt.

8. And although a child is born after the death of his grandfather, yet, if he was conceived in the lifetime of his grandfather, he will, if his father is dead, and his grandfather's testament abandoned, become the *suus heres* of his grandfather. But a child both conceived and born after the death of his grandfather, could not become the *suus heres,* although his father should die and the testament of his grandfather be abandoned; because he was never allied to his grandfather by any tie of relationship. Neither is a person adopted by an emancipated son to be reckoned among the children of the father of his adoptive father.

And not only are these adoptive children of an emancipated son incapable of taking the inheritance as children of the deceased grandfather, but they cannot demand possession of the goods as the nearest cognati. Thus much concerning *sui heredes.*

9. Emancipated children by the civil law have no right to the inheritance of their father; being no longer under the power of their parent, they are not his *sui heredes,* nor are they called to inherit by any other right under the law of the Twelve Tables. But the prætor, obeying natural equity, grants them the possession of goods called *unde liberi,* as if they had been under the power of their father at the time of his death, and this, whether they stand alone, or whether there are also others, who are *sui heredes.* Thus, when there are two children, one thus emancipated, and the other under power at his father's death, the latter, by the civil law, is alone the heir, and alone the *suus heres*: but, as the emancipated son, by the indulgence of the prætor, is admitted to his share, the *suus heres* becomes heir only of a part.

10. But those, who after emancipation have given themselves in adoption, are not admitted as children to the possession of the effects of their natural father, that is, if, at the time of his death, they are still in their adoptive family. But, if, in the lifetime of their natural father, they have been emancipated by their adoptive father, they are then admitted to receive the goods of their natural father exactly as if they had been emancipated by him, and had never entered into the adoptive family. Accordingly, with regard to their adoptive father, they become from that moment strangers to him. But if they are emancipated by their adoptive father after the death of their natural father, they are equally considered as strangers to the adoptive father; and yet do not gain the position of children with regard to the inheritance of their natural father. This has been so laid down, because it was unreasonable that it should be in the power of an adopter to determine to whom the inheritance of a natural father should belong, whether to his children, or to the *agnati.*

11. The rights of adoptive children are therefore less than those of natural children, who, even after emancipation, retain the rank of children by the indulgence of the prætor, although they lose it by the civil law. But adopted children, when emancipated, lose the rank of children by the civil law, and are not aided by the prætor. And the distinction between the two cases is very proper, for the civil law cannot destroy natural rights; and children cannot cease to be sons and daughters, grandsons and granddaughters, because they cease to

be *sui heredes.* But adopted children, when emancipated, become instantly strangers; for the rights and title of son or daughter, which they have only obtained by adoption, may be destroyed by another ceremony of the civil law, that, namely, of emancipation.

12. The same rules are observed in the possession of goods which the prætor gives *contra tabulas* to children who have been passed over, that is, who have neither been instituted hears, nor properly disinherited. For the prætor calls to this possession of goods those children under the power of their father at the time of his death, and those also who are emancipated; but he excludes those who are in an adoptive family at the decease of their natural father. So, too, adoptive children emancipated by their adoptive father, as they are not admitted to succeed their adoptive father *ab intestato,* much less are they admitted to possess the goods of their adoptive father contrary to his testament, for they cease to be included in the number of his children.

13. It is, however, to be observed that children still remaining in an adoptive family, or who have been emancipated by their adoptive father, after the decease of their natural father, who dies intestate, although not admitted by the part of the edict calling children to the possession of goods, are admitted by another part, by which the cognati of the deceased are called. They are, however, only thus admitted in default of *sui heredes,* emancipated children, and *agnati.* For the prætor first calls the children, both the *sui heredes* and those emancipated, then the *legitimi heredes,* and then the *cognati.*

14. Such were the rules that formerly obtained; but they have received some emendation from our constitution relating to persons given in adoption by their natural parents. For cases have occurred in which sons have lost by adoption their succession to their natural parents, and, the tie of adoption being easily dissolved be emancipation, have lost the right of succeeding to either parent. Correcting, therefore, as usual, what is wrong, we have promulgated a constitution enacting that, when a natural father has given his son in adoption, the rights of the son shall be preserved exactly as if he had still remained in the power of his natural father, and no adoption had taken place; except only in this, that the person adopted may succeed to his adoptive father, if he dies intestate. But, if the adoptive father makes a testament, the adoptive son can neither by the civil law nor under the prætorian edict obtain any part of the inheritance, whether he demands possession of the effects *contra tabulas,* or alleges that the testament is inofficious: for an adoptive father is under no obligation to institute or

disinherit his adopted son, there being no natural tie between them, not even if the adopted son has been chosen among three brothers, according to the *senatus-consultum Sabinianum,* for even in this case the son does not obtain the fourth part of his adoptive father's effects, nor has he any action whereby to claim it. But persons adopted by an ascendant are excepted in our constitution; for, as natural and civil rights both concur in their favor, we have thought proper to preserve to this adoption its effect under the old law, as also to the arrogation of a *paterfamilias.* But this, in all its details, may be collected from the tenor of the above-mentioned constitution.

15. The ancient law, favoring descendants from males, called only grandchildren so descended to the succession as *sui heredes,* in preference to the *agnati,* while grandchilden born of daughters, and great-grandchildren born of granddaughters, were reckoned among *cognati,* and succeeded only after the *agnati* to their maternal grandfather and great-grandfather, or to their grandmother, or great grandmother, maternal or paternal. But the emperors would not suffer such a violence against nature to continue without an adequate alteration; and, inasmuch as the name of the grandchild and great-grandchild is common, as well to descendents by females as by males, they gave all the same right and order of succession. But, that persons whose privileges rested not only on nature but also on the ancient law, might enjoy some peculiar advantage, they thought it right that the portions of grandchildren, great-grandchildren, and other lineal descendents of a female, should be somewhat diminished, so that they should not receive so much by a third part as their mother or grandmother would have received, or, when the succession is the inheritance of a woman, as their father or grandfather, paternal or maternal, would have received; and, although there were no other descendants, if they entered on the inheritance, the emperors did not call the *agnati* to the succession. And as, upon the decease of a son, the law of the Twelve Tables calls the grandchildren and great-grandchildren, male and female, to represent their father in the succession to their grandfather, so the imperial legislation calls them to take in succession the place of their mother or grandmother, subject only to the above-mentioned deduction of a third part.

16. But, as there still remained matter of dispute between the *agnati* and the above-mentioned grandchildren, the *agnati* claiming the fourth part of the estate of the deceased by virtue of a constitution, we have rejected this constitution, and have not permitted it to be inserted into our code from that of Theodosius. And in the constitution we

have ourselves promulgated, we have completely departed from the provisions of those former constitutions, and have enacted that *agnati* shall take no part in the succession of the deceased, when there are grandchildren born of a daughter, or great-grandchildren born of a granddaughter, or any other descendants from a female in the direct line; as those in a collateral line ought not to be preferred to direct descendants. This constitution is to prevail from the date of its promulgation in its full force, as we here again enact. And as the old law ordered, that between the sons of the deceased and his grandsons by a son, every inheritance should be divided *per stirpes,* and not *per capita,* so we also ordain, that a similar distribution shall be made between sons and grandsons by a daughter, and between grandsons and granddaughters, great-grandsons and great-granddaughters, and all other descendants in a direct line; so that the children of either branch may receive the share of their mother or father, their grandmother or grandfather, without any diminution; and, if of the one branch there should be one or two children, and of the other branch three or four, then the one or two shall have one-half, and the three or four the other half of the interitance.

XIII. OBLIGATIONS

Let us now pass to obligations. An obligation is a tie of law, which binds us, according to the rules of our civil law, to render something.

1. The principal division of obligations is into two kinds, civil and prætorian. Civil obligations are those constituted by the laws, or, at least, recognized by the civil law. Prætorian obligations are those which a prætor has established by his own authority; they are also called honorary.

2. A further division separates them into four kinds, for they arise *ex contractu* or *quasi ex contractu, ex maleficio* or *quasi ex maleficio.* Let us first treat of those which arise from a contract; which again are divided into four kinds, according as they are formed by the thing, by word of mouth, by writing, or by consent. Let us examine each kind separately.

XIV. QUIBUS MODIS RE CONTRAHITUR OBLIGATIO

An obligation may be contracted by the thing, as, for example, by by giving a *mutuum.* This always consists of things which may be weighed, numbered, or measured, as wine, oil, corn, coin, brass, silver, or gold. In giving these things by number, measure or weight, we do

so that they may become the property of those who receive them. The identical things lent are not returned, but only others of the same nature and quality; and hence the term *mutuum,* because, what I give from being mine becomes yours. From this contract arises the action termed *condictio.*

1. A person, also, who receives a payment which is not due to him, and which is made by mistake, is bound *re,* i. e. by the thing; and the plaintiff may have against him an *actio condictitia* to recover what he has paid. For the *condictio 'Si paret eum dare oportere,'* may be brought against him, exactly as if he had received a *mutuum.* Thus a pupil, to whom a payment has been made by mistake without the authorization of his tutor, is not subject to a *condictio indebitti,* any more than he would be by the gift of a *mutuum.* This species of obligation, however, does not seem to arise from a contract, since he, who gives in order to acquit himself of something due from him, intends rather to dissolve than to make a contract.

2. A person, too, to whom a thing is given as a *commodatum,* i. e. is given that he may make use of it, is bound *re,* and is subject to the *actio commodati.* But there is a wide difference between him and a person who has received a *mutuum;* for the thing is not given him that it may become his property, and he therefore is bound to restore the identical thing he received. And, again, he who has received a *mutuum,* if by any accident, as fire, the fall of a building, shipwreck, the attack of thieves or enemies, he loses what he received, still remains bound. But he who has received a thing lent for his use, is indeed bound to employ his utmost diligence in keeping and preserving it; nor will it suffice that he should take the same care of it, which he was accustomed to take of his own property, if it appear that a more careful person might have preserved it in safety; but he has not to answer for loss occasioned by superior force, or extraordinary accident, provided the accident is not due to any fault of his. If, however, you take with you on a journey the thing lent you to make use of, and you lose it by the attack of enemies or robbers, or by shipwreck, you are undoubtedly bound to restore it. A thing is properly said to be *commodatum,* when you are permitted to enjoy the use of it, without any recompense being given or agreed on; for, if there is any recompense, the contract is that of *locatio,* as a thing, to be a *commodatum,* must be lent gratuitously.

3. A person with whom a thing is deposited, is bound *re,* and is subject to the *actio depositi,* and must give back the identical thing which he received. But he is only answerable if he is guilty of fraud,

and not for a mere fault, such as carelessness or negligence; and he cannot, therefore, be called to account if the thing deposited, being carelessly kept, is stolen. For he who commits his property to the care of a negligent friend, should impute the loss to his own want of caution.

4. A creditor, also, who has received a pledge, is bound *re,* for he is obliged to restore the thing he has received, by the *actio pigneratitia.* But, inasmuch as a pledge is given for the benefit of both parties, of the debtor that he may borrow more easily, and of the creditor that repayment may be better secured, it has been decided that it will suffice if the creditor employs his utmost diligence in keeping the thing pledged; if, notwithstanding this care, it is lost by some accident, the creditor is not accountable for it, and he is not prohibited from suing for his debt.

XV. VERBAL OBLIGATIONS

An obligation by word of mouth is contracted by means of a question and an answer, when we stipulate that anything shall be given to, or done for us. It gives rise to two actions—the *conditio,* when the stipulation is certain, and the *actio ex stipulatu,* when it is uncertain. The term stipulation is derived from *stipulum,* a word employed by the ancients to mean 'firm,' and coming perhaps from *stipes,* the trunk of a tree.

1. Formerly the words used in making this kind of contract were as follows—*Spondes?* do you engage yourself? *Spondeo,* I do engage myself. *Promittis?* do you promise? *Promitto,* I do promise. *Fidepromittis?* do you promise on your good faith? *Fidepromitto,* I do promise on my good faith. *Fidejubes?* do you make yourself *fidejussor? Fidejubeo,* I do make myself *fidejussor. Dabis?* will you give? *Dabo,* I will give. *Facies?* will you do? *Faciam,* I will do. And it is immaterial whether the stipulation is in Latin or in Greek, or in any other language, so that the parties understand it; nor is it necessary that the same language should be used by each person, but it is sufficient if the answer agree with the question. So two Greeks may contract in Latin. Anciently indeed it was necessary to use the solemn words just mentioned, but the constitution of the Emperor Leo was afterwards enacted, which makes unnecessary this solemnity of the expressions, and only requires the apprehension and consent of each party, in whatever words it may be expressed.

2. Every stipulation is made simply, or with the introduction of a particular time, or conditionally. Simply, as, 'Do you engage to give

five *aurei?*' in this case the money may be instantly demanded. With the introduction of a particular time, as when a day is mentioned on which the money is to be paid, as, 'Do you engage to give me *aurei* on the first of the calends of March?' That which we stipulate to give at a particular time becomes immediately due, but cannot be demanded before the day arrives, nor can it even be demanded on that day, for the whole of the day is allowed to the debtor for payment, as it is never certain that payment has not been made on the day appointed until that day is at an end.

3. But, if you stipulate thus, 'Do you engage to give me ten *aurei* annually, as long as I live?' the obligation is understood to be made simply, and is perpetual; for a debt cannot be due for a time only; but the heir, if he demands payment, will be repelled by the *exceptio pacti.*

4. A stipulation is made conditionally, when the obligation is made subject to the happening of some uncertain event, so that it takes effect if such a thing happens, or does not happen, as, for instance, 'Do you engage to give five *aurei,* if Titius is made consul?' Such a stipulation as 'Do you engage to give five *aurei* if I do not go up to the Capitol?' is in effect the same as if the stipulation had been, that five *aurei* should be given to the stipulator at the time of his death. From a conditional stipulation, there arises only a hope that the thing will become due; and this hope we transmit to our heirs, if we die before the condition is accomplished.

5. It is customary to insert a particular place in a stipulation, as, for instance, 'Do you engage to give me at Carthage?' and this stipulation, although it appear to be made simply, yet necessarily implies a delay sufficient to enable the person who promises to pay the money at Carthage. And therefore, if any one at Rome stipulates thus, 'Do you engage to give to me this day at Carthage?' the stipulation is useless, because the thing promised is impossible.

6. Conditions, which relate to time present or past, either instantly make the obligation void, or do not suspend it in any way; as, for instance, 'If Titius has been consul, or if Mævius is alive, do you engage to give me?' If the thing mentioned is not really the case, the stipulation is void; if it is the case, the stipulation is immediately valid. Things certain, if regarded in themselves, although uncertain as far as our knowledge is concerned, do not delay the formation of the obligation.

7. Not only things, but acts, may be the subject of a stipulation: as when we stipulate, that something shall, or shall not, be done. And, in these stipulations, it will be best to subjoin a penalty, lest the amount

included in the stipulation should be uncertain, and the plaintiff should therefore be obliged to prove how great his interest is. Therefore, if any one stipulates, that something shall be done, a penalty ought to be added as thus: 'If the thing is not done, do you engage to give ten *aurei* by way of penalty?' But, if by one single question a stipulation is made, that some things shall be done, and that other things shall not be done, there ought to be added some such clause as this: 'If anything is done contrary to what is agreed on, or anything agreed on is not done, then do you engage to give ten *aurei* by way of penalty?'

XVI. OBLIGATION BY CONSENT

Obligations are formed by the mere consent of the parties in the contracts of sale, of letting to hire, of partnership, and of mandate. An obligation is, in these cases, said to be made by the mere consent of the parties, because there is no necessity for any writing, nor even for the presence of the parties: nor is it requisite that anything should be given to make the contract binding, but the mere consent of those between whom the transaction is carried on suffices. Thus these contracts may be entered into by those who are at a distance from each other by means of letters, for instance, or of messengers. In these contracts each party is bound to the other to render him all that equity demands, while in verbal obligations one party stipulates and the other promises.

XVII. BUYING AND SELLING

The contract of sale is formed as soon as the price is agreed upon, although it has not yet been paid, nor even an earnest given; for what is given as an earnest only serves as proof that the contract has been made. This must be understood of sales made without writing; for with regard to these we have made no alteration in the law. But, where there is a written contract, we have enacted that a sale is not to be considered completed unless an instrument of sale has been drawn up, being either written by the contracting parties, or at least signed by them, if written by others; or if drawn up by a *tabellio,* it must be formally complete and finished throughout; for as long as anything is wanting, there is room to retreat, and either the buyer or seller may retreat, without suffering loss; that is, if no earnest has been given. If earnest has been given, then, whether the contract was written or unwritten, the purchaser, if he refuses to fulfill it, loses what he has given as earnest, and the seller, if he refuses, has to restore double; although no agreement on the subject of the earnest was expressly made.

1. It is necessary that a price should be agreed upon, for there can be no sale without a price. And the price must be fixed and certain. If the parties agree that the thing shall be sold at the sum at which Titius shall value it, it was a question much debated among the ancients, whether in such a case there is a sale or not. We have decided, that when a sale is made for a price to be fixed by a third person, the contract shall be binding under this condition—that if this third person does fix a price, the price to be paid shall be determined by that which he fixes, and that according to his decision the thing shall be delivered and the sale perfected. But if he will not or cannot fix a price, the sale is then void, as being made without any price being fixed on. This decision, which we have adopted with respect to sales, may reasonably be made to apply to contracts of letting to hire.

2. The price should consist in a sum of money. It has been much doubted whether it can consist in anything else, as in a slave, a piece of land, or a toga. Sabinus and Cassius thought that it could. And it is thus that it is commonly said that exchange is a sale, and that this form of sale is the most ancient. The testimony of Homer was quoted, who says that part of the army of the Greeks procured wine by an exchange of certain things. The passage is this:—

'The long-haired Achæans procured wine, some by giving copper, others by giving shining steel, others by giving hides, others by giving oxen, others by giving slaves.'

The authors of the opposite school were of a contrary opinion: they thought that exchange was one thing and sale another, otherwise, in an exchange, it would be imposible to say which was the thing sold, and which the thing given as the price; for it was contrary to reason to consider each thing as at once sold, and given as the price. The opinion of Proculus, who maintained that exchange is a particular kind of contract distinct from sale, has deservedly prevailed, as it is supported by other lines from Homer, and by still more weighty reasons adopted by preceding emperors: it has been fully treated of in our Digests.

3. As soon as the sale is contracted, that is, in the case of a sale made without writing, when the parties have agreed on the price, all risk attaching to the thing sold falls upon the purchaser, although the thing has not yet been delivered to him. Therefore, if the slave dies or receives an injury in any part of the body, or a whole or a portion of the house is burnt, or a whole or a portion of the land is carried by the force of a flood, or is diminished or deteriorated by an inundation, or by a tempest making havoc with the trees, the loss falls on the pur-

chaser, and although he does not receive the thing, he is obliged to pay the price, for the seller does not suffer for anything which happens without any design or fault of his. On the other hand, if after the sale the land is increased by alluvion, it is the purchaser who receives the advantage, for he who bears the risk of harm ought to receive the benefit of all that is advantageous. If a slave who has been sold runs away or is stolen, without any fraud or fault on the part of the seller, we must inquire whether the seller undertook to keep him safely until he was delivered over; if he undertook this, what happens is at his risk; if he did not undertake it, he is not responsible. The same would hold in the case of any other animal or any other thing, but the seller is in any case bound to make over to the purchaser his right to a real or personal action, for the person who has not delivered the thing is still its owner; and it is the same with regard to the action of theft, and the action *damni injuriæ.*

4. A sale may be made conditionally or unconditionally; conditionally, as, for example, 'If Stichus suits you within a certain time, he shall be purchased by you as such a price.'

5. A sale is void when a person knowingly purchases a sacred or religious place, or a public place, such as a forum or basilica. If, however, deceived by the vendor, he has supposed that what he was buying was profane or private, as he cannot have what he purchased, he may bring an action *ex empto* to recover whatever it would have been worth to him not to have been deceived. It is the same if he has purchased a free man, supposing him to be a slave.

BOOK IV.

I. DE OBLIGATIONIBUS QUÆ EX DELICTO NASCUNTUR

As we have treated in the preceding book of obligations arising *ex contractu* and *quasi ex contractu,* we have now to treat of obligations arising *ex maleficio.* Of the obligations treated of in the last book, there were, as we have said, four kinds; of those we are now to treat of, there is but one kind, for they all arise from the thing, that is, from the delict, as, for example, from theft, from robbery, or damage, or injury.

1. Theft is the fraudulent dealing with a thing itself, with its use, or its possession; an act which is prohibited by natural law.

2. The word *furtum* comes either from *furvum,* which means 'black,' because it is committed secretly, and often in the night; or from

fraus; or from *ferre,* that is 'taking away,' or from the Greek word *phor* meaning a thief, which again comes from *pherin,* to carry away.

3. Of theft there are two kinds, theft manifest and theft not manifest; for the thefts termed *conceptum* and *oblatum* are rather kinds of actions attaching to theft than kinds of theft, as will appear below. A manifest theft is one whom the Greek term *ep' autophors,* being not only one taken in the fact, but also one taken in the place where the theft is committed; as, for example, before he has passed through the door of the house where he has committed a theft, or in a plantation of olives, or a vineyard where he has been stealing. We must also extend manifest theft to the case of a thief seen or seized by the owner or any one else in a public or private place, while still holding the thing he has stolen, before he has reached the place where he meant to take and deposit it. But if he once reaches his destination, although he is afterwards taken with the thing stolen on him, he is not a manifest thief. What we mean by a not manifest thief may be gathered from what we have said, for a theft which is not a manifest theft is a not manifest theft.

4. There is what is termed *conceptum furtum,* when a thing stolen has been sought and found in the presence of witnesses in any one's house; for although this person may not be the actual thief, he is liable to a special action termed *concepti.* There is what is termed *furtum oblatum,* if a thing stolen has been placed in your hands and then seized in your house; that is, if the person who placed it in yours hands did so, that it might be found rather in your house than in his. For you, in whose house it had been seized, would have against him who placed it in your hands, although he were not the actual thief, a special action termed *oblati.* There is also the action *prohibiti furti* against a person who prevents another who wishes to seek in the presence of witnesses for a thing stolen; there is, too, by means of the action *furti non exhibiti,* a penalty provided by the edict of the prætor against a person who has not produced a thing stolen which has been searched for and found in his possession. But these actions, *concepti, oblati, furti, prohibiti,* and *furti non exhibiti,* have fallen into disuse; for search for things stolen is not now made according to the ancient practice, and therefore these actions have naturally ceased to be in use, as all who knowingly have received and concealed a thing stolen are liable to the action *furti nec manifesti.*

5. The penalty for manifest theft is quadruple the value of the

thing stolen, whether the thief be a slave or a freeman; that for theft not manifest is double.

6. It is theft, not only when any one takes away a thing belonging to another, in order to appropriate it, but generally when any one deals with the property of another contrary to the wishes of its owner. Thus, if the creditor uses the thing pledged or the depository the thing deposited, or the usuary employs the thing for another purpose than that for which it is given, it is a theft; for example, if any one borrows plate on the pretense of intending to invite friends to supper, and then carries it away with him to a distance, or if any one borrows a horse, as for a ride, and takes it much farther than suits such a purpose, or, as we find supposed in the writings of the ancients, takes it into battle.

7. A person, however, who borrows a thing, and applies it to a purpose other than that for which it was lent, only commits theft, if he knows that he is acting against the wishes of the owner, and that the owner, if he were informed, would not permit it; for if he really thinks the owner would permit it, he does not commit a crime; and this is a very proper distinction, for there is no theft without the intention to commit theft.

8. And even if the borrower thinks he is applying the thing borrowed contrary to the wishes of the owner, yet if the owner as a matter of fact approves of the application, there is, it is said, no theft. Whence the following question arises: Titius has urged the slave of Mævius to steal from his master certain things, and to bring them to him; the slave informs his master, who, wishing to seize Titius in the act, permits his slave to take certain things to Titius; is Titius liable to an action *furti,* or to one *servi corrupti,* or to neither? This doubtful question was submitted to us, and we examined the conflicting opinions of the ancient jurists on the subject, some of whom thought Titius was liable to both these actions, while others thought he was only liable to the action of theft; and to prevent subtleties, we have decided that in this case both these actions may be brought. For, although the slave has not been corrupted, and the case does not seem therefore within the rules of the action *servi corrupti,* yet the intention to corrupt the slave is indisputable, and he is therefore to be punished exactly as if the slave had been really corrupted, lest his impunity should incite others to act in the same criminal way towards a slave more easy to corrupt.

9. Sometimes there may be a theft of free persons, as, if one of our children in our power is carried away.

10. A man may even commit a theft of his own property, as, if a

debtor takes from a creditor a thing he has pledged to him.

11. A person may be liable to an action of theft, although he has not himself committed a theft, as for instance, a person who has lent his aid and planned the crime. Among such is one who makes your money fall from your hand that another may seize upon it; or has placed himself in your way that another may carry off something belonging to you; or has driven your sheep or oxen that another may make away with them, or, to take an instance given by the old lawyers, frightens the herd with a piece of scarlet cloth. But if such acts are only the fruits of reckless folly, with no design of assisting in the commission of a theft, the proper action is one *in factum.* But if Mævius assists Titius to commit a robbery, both are liable to an action of theft. A person, again, assists in a theft who places ladders under a window, or breaks a window or a door, that another may commit a theft; or who lends tools to break a door, or ladders to place under a window, knowing the purpose to which they are to be applied. But a person who does not actually assist, but only advises and urges the commission of a theft, is not liable to an action of theft.

12. Those who are in the power of a parent or master, if they steal anything belonging to the person in whose power they are, commit a theft. The thing stolen, in such a case, is considered to be *furtiva,* and therefore no right in it can be acquired by usucapion before it has returned into the hands of the owner; but no action of theft can be brought, because the relation of the parties is such that no action whatever can arise between them. But if the theft has been committed by the assitance and advice of another, as a theft is actually committed, this person will be subject to the action of theft as a theft is undoubtedly committed through his means.

13. An acton may be brought by any one who is interested in the safety of the thing, although he is not the owner; and the proprietor, consequently, cannot bring this action unless he is interested in the thing not perishing.

14. Hence, a creditor may bring this action if a thing pledged to him is stolen, although his debtor is solvent, because it may be more advantageous to him to rely upon his pledge than to bring an action against his debtor personally; so much so, that although it is the debtor himself that has stolen the thing pledged, yet the creditor can bring an action of theft.

15. So, too, if a fuller receives clothes to clean, or a tailor receives them to mend for a certain fixed sum, and has them stolen from him, it

is he and not the owner who is able to bring an action of theft, for the owner is not considered as interested in their safety, having an action *locati,* by which he may recover the thing stolen, against the fuller or tailor. But if a thing is stolen from a *bona fide* purchaser, he is entitled, like a creditor, to an action of theft, although he is not the proprietor. But an action of theft is not maintainable by the fuller or tailor, unless he is solvent, that is, unless he is able to pay the owner the value of the thing lost; for if the fuller or tailor is insolvent, then the owner, as he cannot recover anything from them, is allowed to bring an action of theft, as he has in this case an interest in the safety of the thing. And it is the same although the fuller or tailor is partially solvent.

16. What we have said of the fuller and tailor as applied by the ancients to the borrower. For as the fuller by accepting a sum for his labor makes himself answerable for the safe keeping of the thing, so does a borrower by accepting the use of the thing he borrows. But our wisdom has introduced in our decisions an improvement on this point, and the owner may now bring an action *commodati* against the borrower, or of theft against the thief; but when once his choice is made, he cannot change his mind and have recourse to the other action. If he elects to sue the thief, the borrower is quite freed; if he elects to sue the borrower, he cannot bring an action of theft against the thief, but the borrower may, that is, provided that the owner elects to sue the borrower knowing that the thing has been stolen. If he is ignorant or uncertain of this, and therefore sues the borrower, and then subsequently learns the true state of the case, and wishes to have recourse to an action of theft, he will be permitted to sue the thief without any difficulty being thrown in his way, for it was in ignorance of the real fact that he sued the borrower; unless, indeed, his claim has been satisfied by the borrower, for then the thief is quite free from any action of theft on the part of the owner, but the borrower takes the place of the owner in the power of bringing this action. On the other hand, it is very evident that if the owner originally brings an action *commodati,* in ignorance that the thing has been stolen, and afterwards learning this, prefers to proceed against the real thief, the borrower is thereby entirely freed, whatever may be the issue of the suit against the thief; as in the previous case, the thief would be freed as against the lender, whether the borrower was wholly or only partially able to satisfy the claim against him.

17. A depository is not answerable for the safe keeping of the

thing deposited, but is only answerable for wilful wrong; therefore, if the thing is stolen from him, as he is not bound by the contract of deposit to restore it, and has no interest in its safety, he cannot bring an action of theft, but it is the owner alone who can bring this action.

18. It should be observed, that the question has been asked whether, if a person under the age of puberty takes away the property of another, he commits a theft. The answer is that it is the intention that makes the theft, such a person is only bound by the obligation springing from the delict if he is near the age of puberty, and consequently understands that he commits a crime.

19. The action of theft, whether brought to recover double or quadruple, has no other object than the recovery of the penalty. For the owner has also a means of recovering the thing itself, either by a *vindicatio* or a *condictio*. The former may be brought against the possessor, whether the thief or any one else; the latter may be brought against the thief or the heir of the thief, although not in possession of the thing stolen.

II. GOODS TAKEN BY FORCE

A person who takes a thing belonging to another by force is liable to an action of theft, for who can be said to take the property of another more against his will than he who takes it by force? And he is therefore rightly said to be an *improbus fur*. The prætor, however, has introduced a peculiar action in this case, called *vi bonorum raptorum;* by which, if brought within a year after the robbery, quadruple the value of the thing taken may be recovered; but if brought after the expiration of a year, then the single value only may be brought even against a person who has only taken by force a single thing, and one of the most trifling value. But this quadruple of the value is not altogether a penalty, as in the action of *furtum manifestum;* for the thing itself is included, so that, strictly, the penalty is only three times the value. And it is the same, whether the robber was or was not taken in the actual commission of the crime. For it would be ridiculous that a person who uses force should be in a better condition than he who secretly commits a theft.

1. As, however, this action can only be brought against a person who robs with the intention of committing a wilful wrong, if any one takes by force a thing, thinking himself, by a mistake, to be the owner, and, in ignorance of the law, believing it permitted an owner to take away, even by force, a thing belonging to himself from persons in

whose possession it is, he ought to be held discharged of this action, nor in such a case would be liable to an action of theft. But lest robbers, under cover of such an excuse, should find means of gratifying their avarice with impunity, the imperial constitutions have made a wise alteration, by providing that no one may carry off by force a thing that is moveable, or moves itself, although he thinks himself the owner. If any one acts contrary to these constitutions, he is, if the thing is his, to cease to be owner of it; if it is not, he is not only to restore the thing taken, but also to pay its value. The constitutions have declared these rules applicable, not only in the case of moveables of a nature to be carried off by force, but also to the forcible entries made upon immoveables, in order that every kind of violent robbery may be prevented.

2. In this action it is not necessary that the thing should have been a part of the goods of the plaintiff; for whether it has been a part of his goods or not, yet if it has been taken from among his goods, the action may be brought. Consequently, if anything has been let, lent or given in pledge to Titius, or deposited with him, so that he has an interest in its not being taken away by force, as, for instance, he has engaged to be answerable for any fault committed respecting it; or if he possesses it *bona fide,* or has the usufruct of it, or has any other legal interest in its not being taken away by force, this action may be brought, not to give him the ownership in the thing, but merely to restore him what he has lost by the thing being taken away from out of his goods, that is, from out of his property. And generally, we may say, that the same causes which would give rise to an action of theft, if the theft is committed secretly, will give rise to this action, if it is committed with force.

III. DE LEGE AQUILIA

The action *damni injuriæ* is established by the *lex Aquilia,* of which the first head privides, that if any one shall have wrongfully killed a slave, or a four-footed beast, being one of those reckoned among cattle, belonging to another, he shall be condemned to pay the owner the greatest value which the thing has possessed at any time within a year previous.

1. As the law does not speak generally of four-footed beasts, but only of those which are reckoned among cattle, we may consider its provision as not applying to dogs or wild animals, but only to animals which may be properly said to feed in herds, as horses, mules, asses,

sheep, oxen, goats, and also swine, for they are included in the term cattle, for they feed in herds. Thus Homer says, as Ælius Marcianus quotes in his Institutes:

"You will find him seated by his swine, and they are feeding by the rock of Corax, near the spring Arethusa."

2. To kill wrongfully is to kill without any right: consequently, a person who kills a thief is not liable to this action, that is, if he could not otherwise avoid the danger with which he was threatened.

3. Nor is a person made liable by this law, who has killed by accident, provided there is no fault on his part, for this law punishes fault as well as wilful wrong-doing.

4. Consequently, if any one playing or practicing with a javelin, pierces with it your slave as he goes by, there is a distinction made; if the accident befalls a soldier while in the camp, or other places appropriated to military exercises, there is no fault in the soldier, but there would be in any one else besides a soldier, and the soldier himself would be in fault if he inflicted such an injury in any other place than one appropriated to military exercises.

5. If, again, any one, in pruning a tree, by letting a bough fall, kills your slave who is passing, and this takes place near a public way, or a way belonging to a neighbor, and he has not cried out to make persons take care, he is in fault; but if he has called out, and the passer-by would not take care, he is not to blame. He is also equally free from blame if he was cutting far from any public way, or in the middle of a field, even though he has not called out, for by such a place no stranger has a right to pass.

6. So, again, a physician who has performed an operation on your slave, and then neglected to attend to his cure, so that the slave dies, is guilty of a fault.

7. Unskilfulness is also a fault, as, if a physician kills your slave by unskilfully performing an operation on him, or by giving him wrong medicines.

8. So, too, if a muleteer, through his want of skill, cannot manage his mules, and runs over your slave, he is guilty of a fault. As, also, he would be if he could not hold them on account of his weakness, provided that a stronger man could have held them in. The same decisions apply to an unskilful or infirm horseman, unable to manage his horse.

9. The words above quoted, "the greatest value the thing has possessed at any time within a year previously," mean that if your

slave is killed, being at the time of his death lame, maimed, or one-eyed, but having been within a year quite sound and of considerable value, the person who kills him is bound to pay, not his actual value, but the greatest value he ever possessed within the year. Hence, this action may be said to be penal, as a person is bound under it not only for the damage he has done, but for much more; and, therefore, the action does not pass against his heir, as it would have done if the condemnation had not exceeded the amount of the actual damage.

10. It has been decided not by virtue of the actual wording of the law, but by interpretation, that not only is the value of the thing perishing to be estimated as we have said, but also the loss which in any way we incur by its perishing;; as, for instance, if your slave having been instituted heir by some one, is killed before he enters at your command on the inheritance, the loss of the inheritance should be taken account of. So, too, if one pair of mules, or a set of four horses, or one slave of a band of comedians, is killed, account is to be taken not only of the value of the thing killed, but also of the diminished value of what remains.

11. The master of a slave who is killed may bring a private action for the damages given by the *lex Aquilia,* and also bring a capital action against the murderer.

12. The second head of the *lex Aquilia* is not now in use.

13. The third head provides for every kind of damage; and therefore, if a slave, or a four-footed beast, of those reckoned among cattle, is wounded, or a four-footed beast of those not reckoned among cattle, as a dog or wild beast, is wounded or killed, an action may be brought under the third head. Compensation may also be obtained under it for all wrongful injury to animals or inanimate things, and, in fact, for anything burnt, broken, or fractured, although the word broken (*ruptum*) would have sufficed for all these cases; for a thing is *ruptum* which in any way is spoilt *(corruptum),* so that not only things fractured or burnt, but also things cut, bruised, split, or in any way destroyed or deteriorated, may be said to be *rupta.* It has also been decided that any one who mixes anything with the oil or wine of another, so as to spoil the goodness of the wine or oil, is liable under this head of the *lex Aquilia.*

14. It is evident that, as a person is liable under the first head, if by wilful injury or by his fault he kills a slave or a four-footed beast, so by this head, a person is liable for every other damage, if there is wrongful injury or fault in what he does. But in this case the offender

is bound to pay the greatest value the thing has possessed, not within the year next preceding, but the thirty days next preceding.

15. Even the word *plurimi,* i. e., of the greatest value, is not expressed in this case. But Sabinus was rightly of opinion, that the estimation ought to be made as if this word was in the law, since it must have been that the plebeians, who were the authors of this law on the motion of the tribune Aquilius, thought it sufficient to have used the word in the first head of the law.

16. But the direct action under this law cannot be brought if any one has, with his own body, done damage, and consequently *utiles actiones* are given against the person who does damage in any other way, as, for instance, a *utilis actio* is given against one who shuts up a slave or a beast, so as to produce death by hunger; who drives a horse so fast as to knock him to pieces, or drives cattle over a precipice, or persuades another man's slave to climb a tree, or go down in a well, and the slave in climbing or descending is killed or maimed. But if any one has flung the slave of another from a bridge or a bank into a river, and the slave is drowned, then, as he has actually flung him down, there can be no difficulty in deciding that he has caused the damage with his own body, and consequently he is directly liable under the *lex Aquilia.* But if no damage has been done by the body, nor to the body, but damage has been done in some other way, the *actio directa* and the *actio utilis* are both inapplicable, and an *actio in factum* is given against the wrong-doer; for instance, if any one through compassion has loosed the fetters of a slave, to enable him to escape.

IV. INJURIES

Injuria, in its general sense, signifies every action contrary to law; in a special sense, it means, sometimes, the same as *contumelia* (outrage), which is derived from *contemnere,* the Greek *ubris;* sometimes the same as *culpa* (fault), in Greek *adikama* as in the *lex Aquilia,* which speaks of damage done *injuria;* sometimes it has the sense of iniquity, injustice, or in Greek *adikia;* for a person against whom the prætor or judge pronounces an unjust sentence, is said to have received an *injuria.*

1. An injury is committed not only by striking with the fists, or striking with clubs or the lash, but also by shouting till a crowd gathers round any one; by taking possession of any one's goods, pretending that he is a debtor to the inflictor of the injury, who knows he has no claim on him; by writing, composing, publishing a libel or defama-

tory verses against any one, or by maliciously contriving that another does any of these things; by following after an honest woman, or a young boy or girl; by attempting the chastity of any one; and in short, by numberless other acts.

2. A man may receive an injury, not only in his own person, but in that of his children in his power, and even in that of his wife, according to the opinion that has prevailed. If, therefore, you injure a daughter in the power of her father, and married to Titius, the action for the injury may be brought, not only in the name of the daughter herself, but also in that of the father or husband. But, if a husband has sustained an injury, the wife cannot bring the *actio injurarium,* for the husband is the protector of the wife, not the wife of the husband. The father-in-law may also bring this action in the name of his daughter-in-law, if her husband is in his power.

3. An injury cannot, properly speaking, be done to a slave, but it is the master who, through the slave, is considered to be injured; not, however, in the same way as through a child or wife, but only when the act is of a character grave enough to make it a manifest insult to the master, as if a person has flogged severely the slave of another, in which case this action is given against him. But a master cannot bring an action against a person who has collected a crowd round his slave, or struck him with his fist.

4. If an injury has been done to a slave held in common, equity demands that it shall be estimated not according to their respective shares in him, but according to their respective position, for it is the masters who are injured.

5. If Titius has the usufruct, and Mævius the property in a slave, the injury is considered to be done rather to Mævius than to Titius.

6. If the injury has been done to a freeman, who serves you *bona fide,* you have no action, but he can bring an action in his own name, unless he has been injured merely to insult you, for, in that case, you may bring the *actio injuriarium.* So, too, with regard to a slave of another who serves you *bona fide,* you may bring this action whenever the slave is injured for the purpose of insulting you.

7. The penalty for injuries under the law of the Twelve Tables was a limb for a limb, but if only a bone was fractured, pecuniary compensation was exacted proportionate to the great poverty of the times. Afterwards, the prætor permitted the injured parties themselves to estimate the injury, so that the judge should condemn the defendants to pay the sum estimated, or less, as he may think proper. The penalty

appointed by the Twelve Tables has fallen in desuetude, but that introduced by the prætors, and termed honorary, is adopted in the administration of justice. For, according to the rank and character of the person injured, the estimate is greater or less; and a similar gradation is observed, not improperly, even with regard to a slave, one amount being paid in the case of a slave who is a steward, a second in that of a slave holding an office of the intermediate class, and a third in that of one of the lowest rank, or one condemned to wear fetters.

8. The *lex Cornelia* also speaks of injuries, and introduced an *actio injuriarum,* which may be brought when any one alleges that he has been struck or beaten, or that his house has been broken into. And the term "his house" includes one which belongs to him and in which he lives, or one he hires, or one in which he is received gratuitously or as a guest.

9. An injury is said to be of a grave character, either from the nature of the act, as if any one is wounded or beaten with clubs by another, or from the nature of the place, as when an injury is done in a theater, a forum, or in the presence of the prætor; sometimes from the quality of the person, as when it is a magistrate that has received the injury, or a senator has sustained it at the hands of a person of low condition, or a parent or patron at the hands of a child or freedman. For the injury done to a senator a parent or a patron is estimated differently from an injury done to a person of low condition or to a stranger. Sometimes it is the part of the body injured that gives the character to the injury as if any one had been struck in the eye. Nor does it make any difference whether such an injury has been done to a *paterfamilias* or a *filiusfamilius,* it being in either case considered of a grave character.

10. Lastly, it must be observed, that in every case of injury he who has received it may bring either a criminal or a civil action. In the latter, it is a sum estimated, as we have said, that constitutes the penalty; in the former, the judge, in the exercise of his duty, inflicts on the offender an extraordinary punishment. We must, however, remark, that a constitution of Zeno permits men of the rank of *illustris,* or or any higher rank, to bring or defend the *actio injuriarum* if brought criminally by a procurator, as may be seen more clearly by reading the constitution itself.

11. Not only is he liable to the *actio injuriarum* who has inflicted the injury, as, for instance, the person who has struck the blow; but he also who has maliciously caused or contrived that any one should be

struck in the face with the fist.

12. This action is extinguished by a person dissembling to have received the injury; and therefore, a person who has taken no account of the injury, that is, who immediately on receiving it has shown no resentment at it, cannot afterwards change his mind and resuscitate the injury he has allowed to rest.

ROME AT THE END OF THE PUNIC WARS

BY POLYBIUS

Rome, with the end of the third Punic war, 146 B. C., had completely conquered the last of the civilized world. The best authority for this period of her history is Polybius. He was born in Arcadia, in 204 B. C., and died in 122 B. C. Polybius was an officer of the Achæan League, which sought by federating the Peloponnesus to make it strong enough to keep its independence against the Romans, but Rome was already too strong to be resisted, and arresting a thousand of the most influential members, sent them to Italy to await trial for conspiracy. Polybius had the good fortune, during seventeen years exile, to be allowed to live with the Scipios. He was present at the destructions of Carthage and Corinth, in 146 B. C., and did more than anyone else to get the Greeks to accept the inevitable Roman rule.

Polybius is the most reliable, but not the most brilliant, of ancient historians.

AN ANALYSIS OF THE ROMAN GOVERNMENT

The three kinds of government, monarchy, aristocracy and democracy, were all found united in the commonwealth of Rome. And so even was the balance between them all, and so regular the administration that resulted from their union, that it was no easy thing to determine with assurance, whether the entire state was to be estimated an aristocracy, a democracy, or a monarchy. For if they turned their view upon the power of the consuls, the government appeared to be purely monarchial and regal. If, again, the authority of the senate was con-

sidered, it then seemed to wear the form of aristocracy. And, lastly, if regard was to be had to the share which the people possessed in the administration of affairs, it could then scarcely fail to be denominated a popular state. The several powers that were appropriated to each of these distinct branches of the constitution at the time of which we are speaking, and which, with very little variation, are even still preserved, are these which follow.

The consuls, when they remain in Rome, before they lead out the armies into the field, are the masters of all public affairs. For all other magistrates, the tribunes alone excepted, are subject to them, and bound to obey their commands. They introduce ambassadors into the senate. They propose also to the senate the subjects of debates; and direct all forms that are observed in making the decrees. Nor is it less a part of their office likewise, to attend to those affiairs that are transacted by the people; to call together general assemblies; to report to them the resolutions of the senate; and to ratify whatever is determined by the greater number. In all the preparations that are made for war, as well as in the whole administration in the field, they possess an almost absolute authority. For to them it belongs to impose upon the allies whatever services they judge expedient; to appoin the military tribunes; to enrol the legions, and make the necessary levies; and to inflict punishments in the field, upon all that are subject to their command. Add to this, that they have the power likewise to expend whatever sums of money they may think convenient from the public treasury; being attended for that purpose by a quæstor; who is always ready to receive and execute their orders. When any one therefore, directs his view to this part of the constitution, it is very reasonable for him to conclude that this government is no other than a simple royalty. Let me only observe, that if in some of these particular points, or in those that will hereafter be mentioned, any change should be either now remarked, or should happen at some future time, such an alteration will not destroy the general principles of this discourse.

To the senate belongs, in the first place, the sole care and management of the public money. For all returns that are brought into the treasury, as well as all the payments that are issued from it, are directed by their orders. Nor is it allowed to the quæstors to apply any part of the revenue to particular occasions as they arise, without a decree of the senate; those sums alone excepted, which are expended in the service of the consuls. And even those more general, as well as greatest disbursements, which are employed at the return every five years, in

building and repairing the public edifices, are assigned to the censors for that purpose, by the express permission of the senate. To the senate also is referred the cognizance of all the crimes, committed in any part of Italy, that demand a public examination and inquiry: such as treasons, conspiracies, poisonings, and assassinations. Add to this, that when any controversies arise, either between private men, or any of the cities of Italy, it is the part of the senate to adjust all disputes; to censure those that are deserving of blame: and to yield assistance to those who stand in need of protection and defence. When any embassies are sent out of Italy; either to reconcile contending states; to offer exhortations and advice; or even, as it sometimes happens, to impose commands; to propose conditions of a treaty; or to make a denunciation of war; the care and conduct of all these transactions is entrusted wholly to the senate. When any ambassadors also arrive in Rome, it is the senate likewise that determines how they shall be received and treated, and what answer shall be given to their demands. In all these things that have now been mentioned, the people has no share. To those, therefore, who come to reside in Rome during the absence of the consuls, the government appears to be purely aristocratical. Many of the Greeks, especially, and of the foreign princes, are easily led into this persuasion: when they percieve that almost all the affairs, which they are forced to negotiate with the Romans, are determined by the senate.

And now it may well be asked, what part is left to the people in this government: since the senate, on the one hand, is vested with the sovereign power, in the several instances that have been enumerated, and more especially in all things that concern the management and disposal of the public treasure; and since the consuls, on the other hand, are entrusted with the absolute direction of the preparations that are made for war, and exercise an uncontrolled authority on the field. There is, however, a part still allotted to the people; and, indeed, the most important part. For, first, the people are the sole dispensers of rewards and punishments; which are the only bands by which states and kingdoms, and, in a word, all human societies, are held together. For when the difference between these is overlooked, or when they are distributed without due distinction, nothing but disorder can ensue. Nor is it possible, indeed, that the government should be maintained if the wicked stand in equal estimation with the good. The people, then, when any such offences demand such punishment, frequently condemn citizens to the payment of a fine: those especially who

have been invested with the dignities of the state. To the people alone belongs the right to sentence any one to die. Upon this occasion they have a custom which deserves to be mentioned with applause. The person accused is allowed to withdraw himself in open view, and embrace a voluntary banishment, if only a single tribe remains that has not yet given judgment; and is suffered to retire in safety to Præneste, Tibur, Naples, or any other of the confederate cities. The public magistrates are allotted also by the people to those who are esteemed worthy of them: and these are the noblest rewards that any government can bestow on virtue. To the people belongs to power of approving or rejecting laws. and, which is still of greater importance, peace and war are likewise fixed by their deliberations. When any alliance is concluded, any war ended, or treaty made; to them the conditions are referred, and by them either annulled or ratified. And thus again, from a view of all these circumstances, it might with reason be imagined, that the people had engrossed the largest portion of the government, and that the state was plainly a democracy.

Such are the parts of the administration, which are distinctly assigned to each of the three forms of government, that are united in the commonwealth of Rome. It now remains to be considered, in what manner each several form is enabled to counteract the others, or to cooperate with them.

When the consuls, invested with the power that has been mentioned, lead the armies into the field, though they seem, indeed, to hold such absolute authority as is sufficient for all purposes, yet are they in truth so dependent both on the senate and the people, that without their assistance they are by no means able to accomplish any design. It is well known that armies demand a continual supply of necessities. But neither corn, nor habits, nor even the military stipends, can at any time be transmitted to the legions unless by an express order of the senate. Any opposition, therefore, or delay, on the part of this assembly, is sufficient always to defeat the enterprises of the generals. It is the senate, likewise, that either compels the consuls to leave their designs imperfect, or enables them to complete the projects which they have formed, by sending a successor into each of their several provinces, upon the expiration of the annual term, or by continuing them in the same command. The senate also has the power to aggrandize and amplify the victories that are gained, or, on the contrary, to depreciate and debase them. For that which is called among the Romans a triumph, in which a sensible representation of the actions of the generals

is exposed in solemn procession to the view of all the citizens, can neither be exhibited with due pomp and splendor, nor, indeed, be in any other manner celebrated, unless the consent of the senate be first obtained, together with the sums that are requisite for the expense. Nor is it less necessary, on the other hand, that the consuls, how far soever they may happen to be removed from Rome, should be careful to preserve the good affections of the people. For the people, as we have already mentioned, annuls or ratifies all treaties. But that which is of greatest moment is that the consuls, at the time of laying down their office are bound to submit their past administration to the judgment of the people. And thus these magistrates can at no time think themselves secure, if they neglect to gain the approbation both of the senate and the people.

In the same manner the senate also, though invested with so great authority, is bound to yield a certain attention to the people, and to act in concert with them in all affairs that are of great importance. With regard especially to those offiences that are committed against the state, and which demand a capital punishment, no inquiry can be perfected, nor any judgment carried into execution, unless the people confirm what the senate has before decreed. Nor are the things which more immediately regard the senate itself less subject that the same control. For if a law should at any time be proposed to lessen the received authority of the senators, to detract from their honors and pre-eminence, or even deprive them of a part of their possessions, it belongs wholly to the people to establish or reject it. And even still more, the interposition of a single tribune is sufficient, not only to suspend the deliberations of the senate, but to prevent them also from holding any meeting or assembly. Now the peculiar office of the tribunes is to declare those sentiments that are most pleasing to the people: and principally to promote their interests and designs. And thus the senate, on account of all these reasons, is forced to cultivate the favor and gratify the inclinations of the people.

The people again, on their part, are held in dependence on the senate, both to the particular members, and to the general body. In every part of Italy there are works of various kinds, which are let to farm by the censors, such are the building or repairing of the public edifices, which are almost innumerable; the care of rivers, harbors, mines and lands; every thing, in a word, that falls beneath the dominion of the Romans. In all these things the people are the undertakers: inasmuch as there are scarcely any to be found that are not in some way

involved, either in the contracts, or in the management of the works. For some take the farms of the censors at a certain price; others become partners with the first. Some, again, engage themselves as sureties for the farmers; and others, in support also of these sureties, pledge their own fortunes to the state. Now, the supreme direction of all these affairs is placed wholly in the senate. The senate has the power to allot a longer time, to lighten the conditions of the agreement, in case that any accident has intervened, or even to release the contractors from their bargain, if the terms should be found impracticable. There are also many other circumstances in which those that are engaged in any of the public works may be either greatly injured or greatly benefited by the senate; since to this body, as we have already observed, all things that belong to these transactions are constantly referred. But there is still another advantage of much greater moment. For from this order, likewise, judges are selected, in almost every accusation of considerable weight, whether it be of a public or private nature. The people, therefore, being by these means held under due subjection and restraint, and doubtful of obtaining that protection, which they foresee that they may at some time want, are always cautious of exciting any opposition to the measures of the senate. Nor are they, on the other hand, less ready to pay obedience to the orders of the consuls; through the dread of that supreme authority, to which the citizens in general, as well as each particular man, are obnoxious in the field.

Thus, while each of these separate parts is enabled either to assist or obstruct the rest, the government, by the apt contexture of them all in the general frame, is so well secured against every accident, that it seems scarcely possible to invent a more perfect system. For when the dread of any common danger, that threatens from abroad, constrains all the orders of the state to unite together, and co-operate with joint assistance; such is the strength of the republic that as, on the one hand, no measures that are necessary are neglected, while all men fix their thoughts upon the present exigency; so neither is it possible, on the other hand, that their designs should at any time be frustrated through the want of due celerity, because all in general, as well as every citizen in particular, employ their utmost efforts to carry what has been determined into execution. Thus the government, by the very form and peculiar nature of its constitution, is equally enabled to resist all attacks, and to accomplish every purpose. And when again all apprehensions of foreign enemies are past, and the Romans being now settled in tranquility, and enjoying at their leisure all the fruits of

victory, begin to yield to the seduction of ease and plenty, and, as it happens usually in such conjunctures, become haughty and ungovernable; then chiefly may we observe in what manner the same constitution likewise finds in itself a remedy against the impending danger. For whenever either of the separate parts of the republic attempts to exceed its proper limits, excites contention and dispute, and struggles to obtain a greater share of power, than that which is assigned to it by the laws, it is manifest, that since no one single part, as we have shown in this discourse, is in itself supreme or absolute, but that on the contrary, the powers which are assigned to each are still subject to reciprocal control, the part, which thus aspires, must soon be reduced again within its own just bounds, and not be suffered to insult or depress the rest. And thus the several orders, of which the state is framed, are forced always to maintain their due position: being partly counterworked in their designs; and partly also restrained from making any attempt, by the dread of falling under that authority to which they are exposed.

THE MILITARY INSTITUTIONS OF THE ROMANS

I.

As soon as the consuls are declared, the military tribunes are next appointed. Of these, fourteen are taken from the citizens who have carried arms in five campaigns; and ten more from those who completed ten. For every citizen, before he arrives at the age of forty-six, is obliged to serve either ten years in the cavalry, or sixteen in the infantry: those alone excepted who are placed by the censors below the rate of four hundred drachmæ; and who are all reserved for the service of the sea. In the case of any pressing danger the time of continuing in the infantry is extended to twenty years. No citizen is permitted by the laws to sue for any magistracy before he has completed the service of ten campaigns.

When the enrollments are to be made the consuls give notice before to the people of a certain day, upon which all the Romans that are of sufficient age are required to attend. This is done every year. And when the day arrives, and the men all appear at Rome, and are assembled afterwards in the Capitol, the tribunes of the youngest order divide themselves, as they are appointed either by the consuls or the people, into four separate bodies. For this division corresponds with the first

and general distribution of all the forces into four separate legions. Of these tribunes, therefore, the four first named are assigned to the first legion; the three next to the second; the following four to the third; and the last three appointed to the fourth. Of the tribunes of the oldest order the two that are first named are placed in the first legion; the three second in the second; the two that follow in the third; and the remaining three in the fourth. By this distribution and division an equal number of commanders is allotted to each legion. When this is done, the tribunes of each legion, having taken their seats apart, draw out the tribes one by one by lot; and calling to them that upon which the lot first falls, they select from it four young men, as nearly equal as is possible in age and stature. And when these are brought forward from the rest, the tribunes of the first legion first choose one; then those of the second a second; those of the third take the third; and those of the fourth the last. After these four more are made to approach. And now the tribunes of the second legion first make their choice; then those of the rest in order; and last of all the tribunes of the first. In the same manner again, from the next four that follow, the tribunes of the third legion choose the first; and those of the second the last. And thus, by observing the same method of rotation to the end, it happens that the legions, with respect to the men of which they are composed are all alike and equal. The number allotted to each legion is four thousand and two hundred; and sometimes five thousand, when any great and unusual danger is foreseen. After these had been thus selected it was anciently the custom to choose the cavalry; and to add two hundred horsemen to each four thousand of the infnantry. But in the present times, the citizens, of whom the cavalry is composed, are first enrolled; having been before appointed by the censors, according to the rate of their revenue; and three hundred are assigned to every legion.

When the enrollments are in this manner finished, the tribunes having assembled together in separate bodies the soldiers of their respective legions, choose out a man that seems most proper for the purpose, and make him swear in the following words: "that he will be obedient to his commanders, and execute all the orders that he shall receive from them to the utmost of his power." The rest of the soldiers of the legion, advancing one by one, swear also that they will perform what the first has sworn. About the same time, likewise, the consuls send notice to the magistrates of the allied cities of Italy, from which they design to draw any forces, what number of troops are wanted, and

at what time and place they are required to join the Roman army. The cities, having raised their levies in the same manner that has now been mentioned, and administered to them the same oath, send them away attended by a paymaster and a general.

At Rome the tribunes, after the ceremony of the oath is finished, command all the legions to return without arms upon a certain day, and then dismiss them. And when they are met together again at the appointed time, those that are youngest, and of the lowest condition, are set apart for the light-armed troops. From the next above these in age are selected the hastati; from those that are in full strength and vigor, the principes; and the oldest of all that are enrolled are the triarii. For every legion is composed of all these different bodies; different in name, in age, and in the manner in which they are armed. This division is so adjusted that the triarii amount to six hundred men; the principes are twelve hundred; the hastati an equal number; and all the rest light-armed. If a legion consist of more than four thousand men, the several bodies are increased in due proportion; except only that the number of the triarii always remains the same.

The youngest of these troops are armed with a sword, light javelins, and a buckler. The buckler is both strongly made, and of a size sufficient for security. For it is of a circular form, and has three feet in the diameter. They wear likewise upon their heads some simple sort of covering; such as the skin of a wolf, or something of a similar kind; which serves both for their defense, and to point out also to the commanders those particular soldiers that are distinguished either by their bravery or want of courage in the time of action. The wood of the javelins is of the length of two cubits, and of the thickness of a finger. The iron part is a span in length, and is drawn out to such a slender fineness towards the point, that it never fails to be bent in the very first discharge, so that the enemy cannot throw it back again. Otherwise it would be a common javelin.

The next in age, who are called the hastati, are ordered to furnish themselves with a complete suit of armour. This among the Romans consists in the first place of a shield of a convex surface; the breadth of which is two feet and a half; and the length four feet, or four feet and a palm of those of the largest size. It is composed of two planks, glued together, and covered first with linen, and afterwards with calves' skin. The extreme edges of it, both above and below, are guarded with plates of iron; as well to secure it against the strokes of swords, as that it may be rested also upon the ground without receiving any injury.

To the surface is fitted likewise a shell of iron; which serves to turn aside the more violent strokes of stones, or spears, or any other ponderous weapon. After the shield comes the sword, which is carried upon the right thigh, and is called the Spanish sword. It is formed not only to push with at the point; but to make a falling stroke with either edge, and with singular effect; for the blade is remarkably strong and firm. To these arms are added two piles or javelins; a helmet made of brass; and boots for the legs. The piles are of two sorts; the one large, the other slender. Of the former those that are round have the breadth of a palm in their diameter; and those that are square the breadth of a palm likewise is a side. The more slender, which are carried with the other, resemble a common javelin of a moderate size. In both sorts, the wooden part is of the same length likewise, and turned outwards at the point, in the form of a double hook, is fastened to the wood with so great care and foresight, being carried upwards to the very middle of it, and transfixed with many close-set rivets, that it is sooner broken in use than loosened; though in the part in which it is joined to the wood, it is not less than a finger and a half in thickness. Upon the helmet is worn an ornament of three upright feathers, either red or black, of about a cubit in height; which being fixed upon the very top of the head, and added to their other arms, make the troops seem to be of double size, and gives them an appearance which is both beautiful and terrible. Beside these arms, the soldiers in general place also upon their breasts a square plate of brass, of the measure of a span on either side, which is called the guard of the heart. But all those who are rated at more than ten thousand drachmæ cover their breasts with a coat of mail. The principes and the triarii are armed in the same manner likewise as the hastati; except only that the triarii carry pikes instead of javelins.

From each of these several sorts of soldiers, the youngest alone excepted, ten men of distinguished merit are first selected; and after these, ten more. These are all called commanders of companies; and he that is first chosen has a seat in the military council. After these, twenty more are appointed to conduct the rear; and are chosen by the former twenty. The soldiers of each different order, the light troops excepted, are then divided into ten separate parts; to each of which are assigned four officers, of those who have been thus selected; two to lead the van, and two to take the care of the rear. The light-armed troops are distributed in just proportion among them all. Each separate part is called a company, a band, or an ensign; and the leaders, captains

of companies or centurions. Last of all, two of the bravest and most vigorous among the soldiers are appointed by the captains to carry the standards of the company. It is not without good reason that two captains are assigned to every company. For as it always is uncertain, what will be the conduct of an officer, or to what accidents he may be exposed; and, as in the affairs of war, there is no room for pretext or excuse; this method is contrived, that the company may not upon any occasion be destitute of a leader. When the captains therefore both are present, he that was first chosen leads the right, and the other the left of the company. And when either of them is absent, he that remains takes the conduct of the whole. In the choice of these captains not those that are the boldest and most enterprising are esteemed the best; but those rather, who are steady and sedate; prudent in conduct, and skillful in command. Nor is it so much required, that they should be at all times eager to begin the combat, and throw themselves precipitately into action; as that, when they are pressed, or even conquered by a superior force, they should still maintain their ground, and rather die than desert their station.

The cavalry is divided also into ten parts or troops. In each of these, three captains first are chosen; who afterwards appoint three other officers to conduct the rear. The first of the captains commands the whole troop. The other two hold the rank and office of decurions; and all of them are called by that name. In the absence of the first captain, the next in order takes the entire command. The manner in which these troops are armed is at this time the same as that of the Greeks. But anciently it was very different. For, first, they wore no armour upon their bodies; but were covered, in the time of action, with only an undergarment. In this method, they were able indeed to descend from their horses, or leap up again upon them, with greater quickness and facility; but, as they were almost naked, they were too much exposed to danger in all those engagements. The spears also that were in use among them in former times were, in a double respect, very unfit for service. First, as they were of a slender make, and always trembled in the hand, it not only was extremely difficult to direct them with exactness towards the destined mark; but very frequently, even before their points had reached the enemy, the greatest part of them were shaken into pieces by the bare motion of the horses. Add to this, that these spears, not being armed with iron at the lowest end, were formed to strike only with the point, and, when they were broken by this stroke, were afterwards incapable of any farther use. Their buckler was made

of the hide of an ox, and in form was not unlike to those globular dishes which are used in sacrifices. But this was also of too infirm a texture for defense; and, as it was at first not very capable of service, it afterwards became wholly useless, when the substance of it had been softened and relaxed by rain. The Romans, therefore, having observed these defects, soon changed their weapons for the armour of the Greeks. For the Grecian spear, which is firm and stable, not only serves to make the first stroke with the point in just direction and with sure effect; but, with the help of the iron at the opposite end, may, when turned, be employed against the enemy with equal steadiness and force. In the same manner also the Grecian shields, being strong in texture, and capable of being held in a fixed position, are alike serviceable both for attack and for defense. These advantages were soon perceived, and the arms adopted by the cavalry. For the Romans, above all other people, are excellent in admitting foreign customs that are preferable to their own.

As soon as this partition of the troops is finished, and the necessary orders given by the tribunes concerning their arms, they are then commanded to return to their respective habitations, till the day arrives, upon which they are bound by oath to assemble together in a certain place appointed by the consuls. Each of the consuls usually appoints a different place for the assembling of his whole army: for to each of them are allotted separately two Roman legions, together with an equal part of the allies. No pretense of accident is at any time allowed to those that are enrolled; nor any excuse admitted, in opposition to their oath, to discharge them from appearing on the day prescribed; unless some auspices should intervene, or some disaster happen, which renders their attendance absolutely impracticable. When they are all met together, the distribution of the allies, who are assembled also with the Romans, is regulated by twelve officers, called prefects, and appointed by the consuls, in the following manner. They first choose out from all the allies a body of the bravest and most skillful soldiers, both cavalry and infantry, to serve near the person, and under the immediate orders, of the consuls. These are called the extraordinary, or selected troops. The whole infantry of the allies is usually the same in number with that of the Romans; but the cavalry three times as many. Among these, about a third part of the cavalry, and a fifth part of the infantry, are set apart as extraordinaries. The rest are then divided by the prefects into two equal bodies; one of which is called the right, and the other the left wing. When all things are thus prepared, the tribunes

direct both the Romans and the allies to encamp.

III.

As soon as the encampment is completed, the tribunes, having assembled together all the persons, both free men and slaves, that are in the army, administer to every one of them apart the following oath: "That they will not steal any thing from the camp; and even if they find any thing that they will bring it to the tribunes." Two companies are then selected from the principes and the hastati of each legion; to whose care is assigned the ground that lies before the tents of the tribunes. For as the Romans usually pass the whole time of day in this open space, they employ great care to keep it continually cleansed and sprinkled. Of the remaining eighteen companies three are allotted to every tribune. For in every legion there are twenty companies of principes and hastati, as we have already mentioned, and six tribunes. The service which these three companies are obliged to perform in turn for the tribune to whom they are respectively assigned is to fix his tent, to make the ground around it plain and level, and to cover his baggage, if it be necessary, with a fence. It is their duty likewise to place a double guard near him for his security. This guard consists of four soldiers, two of whom are stationed before the tent, and two behind it, near to the horses. As three companies are thus allotted to every tribune, and as each company, without including the triarii and the light-armed troops, who are both exempted from this duty, contains more than a hundred men, this service falling to each company in turn upon every fourth day only, becomes very light and easy; and, while it ministers in all things that are necessary to the convenience of the tribunes, renders their office likewise more illustrious, and brings respect to their authority.

The triarii are discharged from bearing any part in this attendance. But each of their companies is obliged to furnish every day a guard to the troop of cavalry that lies close behind it. The duty of this guard, among other functions, is principally to observe the horses; that they may not at any time be rendered unfit for service by being entangled in the bands that hold them; or by breaking away, and falling in among other horses, create tumult and disorder in the camp. One company alone, which is selected in turn from the whole body of these troops, is stationed round the tent of the consul; as well to secure his person against all surprise, as for the sake of adding splendor also to his dignity.

The entrenchment is made by the allies, on those two sides, near to which their wings are encamped. The two other sides are left to the Romans; to each legion, one. Each side is divided into certain portions, according to the number of the companies: and a centurion assigned, to overlook the work in every portion. The whole side is afterwards examined and approved by two of the tribunes; whose office it is to attend to every thing that is done in the camp. For the tribunes, dividing among themselves the time of their campaign, and presiding, two in turn, during two months of the six, have the supreme direction of every kind of necessary work and service, that falls within the time of their command. The same duty is performed, in the same manner likewise, among the allies, by the officers who are called prefects.

As soon as daylight appears, the leaders of the cavalry, and the centurions, attend all together at the tents of the tribunes; and the tribunes at that of the consul. The necessary orders are then delivered by the consul to the tribunes; by the tribunes to the centurions and the leaders of the cavalry; and by these, as the proper time for each arrives, to the rest of the army.

The delivery of the signal for the night is secured in the following manner. Every tenth cohort, both of infantry and cavalry, is lodged at the extreme end of those lines which form the separate streets. From each of these a soldier is selected, who is discharged from all the duties of the guard. This soldier, every day about the time of the setting of the sun, goes to the tent of the tribune, and receives from him the signal; which is a flat tablet of wood, with some word inscribed upon it; and having returned back again to his own company, he then delivers the tablet with the signal, in the presence of some witnesses, to the leader of the cohort that is lodged next to his own. From him again, it passes to the following cohort; and, in the same manner, through all the rest in order, till it arrives at the first cohorts, which lie nearest to the tents of the tribunes; and from thence it is carried back again to the tribunes, while it is yet day. If all the tablets that were delivered are brought back, the tribune then perceives that the signal has passed through all the camp. But if any one be wanting, he immediately examines into the fact; and, having discerned by the inscriptions in what quarter the tablet has been stopped, inflicts a suitable punishment upon those that have been the cause of that neglect.

The guards for the night are thus disposed. One entire company is always stationed around the consular tent. The tents of the tribunes,

and the cavalry, are guarded by soldiers taken from each company, in the manner that has before been mentioned. Each separate company appoints a guard likewise for itself from its own body. The other guards are disposed as the consul directs. But the usual custom is, to allot three soldiers to the quæstor; and two to each of the members of the council. The external sides of the camp are guarded by the light-armed forces; who are distributed every day along the whole intrenchment. From the same body, ten men are also stationed before every gate that leads into the camp.

Among those that are appointed for the watch, one soldier from each guard, the same whose duty it is to take the first watch, is carried in the evening to the tribune, by one of the conductors of the rear of every company. The tribune, having given to all of them some small tablets of wood, inscribed with a certain character, and appropriated to each particular guard, dismisses them to their respective stations.

The care of making the rounds is entrusted to the cavalry. The captain of the first troop in each of the legions is bound to send his orders in the morning to one of the conductors of the rear; commanding him to appoint, before the time of dinner, four soldiers of the troop to go the rounds; and to send notice also afterwards, in the evening, to the leader of the second troop, that it is his turn to inspect the watch on the following day. The leader of the second troop gives notice, in like manner, for the third day; and the same method is observed through all the rest. The four soldiers, who are thus selected from the first troop by the conductor of the rear, having determined among themselves each particular watch by lot, go afterwards to the tent of the tribune, and receive from thence in writing an account of the several posts, and of the number of guards, which they are required to visit. They then take their station near to the first company of the triarii. For the leader of this company has the care of marking the time of every watch by the sound of a trumpet. And when the signal is made, he, to whose inspection the first watch was allotted, taking with him some of his friends as witnesses, goes round to all the posts that are recited in his orders, and visits all the guards: not those alone that are stationed round the intrenchment, and before the gates, but those also that are placed in every single company and in every troop. If he finds the sentinels awake and fixed in their several stations, he receives from them the wooden tablets. But if he discovers that any one is sleeping, or has left his post, he desires those that are present to bear testimony to the fact, and then retires. The same method is observed in all the

following watches. The care of sounding the trumpet, by which notice is given in the same moment both to the sentinels and the inspectors of the watch, is left, as we have said, to the captains of the first company of the triarii, who perform this duty alternately, day by day.

As soon as the morning appears, those who have made the rounds carry the tablets to the tribune. If they bring the full number back they are suffered to depart without any question. But if the number be less than that of the guards, the inscriptions are immediately examined, in order to discover from what particular guard the tablet has not been returned. When this is known, the centurion is ordered to attend and to bring with him the soldiers that were appointed for that guard; that they may be questioned face to face with him who made the rounds. If the fault be in the guard, he that made the rounds appeals at once to the testimony of his friends who were present. Such evidence always is demanded from him; and in case that he is not able to bring this proof, the whole blame rests upon himself. The council is then assembled; the cause is judged by the tribune, and the guilty person sentenced to be bastinaded. This punishment is inflicted in the following manner.

The tribune, taking a stick into his hand, gently touches the criminal; and immediately afterwards all the soldiers of the legion attack him with sticks and stones; so that the greatest part of those that are thus condemned are destroyed immediately in the camp. If any one escapes, yet he is not saved. For all return into his country is shut against him: nor would any of his friends or kindred ever dare to receive him into their houses. Those, therefore, who have once fallen into this misfortune are lost without resource. The conductor of the rear, and the leader of the troops, if ever they neglect to give the necessary notice in due time, the first to the inspectors of the watch, and the second to the leader of the succeeding troop, are subject also to this punishment. From the dread of a discipline so severe, and which leaves no place for mercy, every thing that belongs to the guards of the night is performed with the exactest diligence and care.

The soldiers are subject to the control of the tribunes, as these are to that of the consuls. The tribunes have the power of imposing fines, and demanding sureties, and of punishing with stripes. The same authority is exercised by the prefects among the allies.

The punishment of the bastinade is inflicted also upon those who steal any thing in the camp; those who bear false testimony; who, in their youth, abuse their bodies; and who have been three times convicted of one fault. These offenses are punished as crimes. There

are others that are regarded as the effects of cowardice, and disgraceful to the military character. When a soldier, for example, with a view of obtaining a reward, makes a report to the tribunes of some brave action which he has not performed. When any one, through fear, deserts his station, or throws away his arms in the time of engagement. For hence it happens that many, through the dread of the allotted punishment, when they are attacked by much greater numbers, will even encounter manifest destruction, rather than desert that post which they had been ordered to maintain. Others again, when they have lost their shield, or sword, or any other part of their arms in the time of action, throw themselves precipitately into the very midst of the enemy; hoping either to recover what they have lost, or to avoid by death the reproaches of their fellow-soldiers, and the disgrace that is ready to receive them.

If it happens that many are at one time guilty of the same fault, and that whole companies retire before the enemy, and desert their station; instead of punishing all of them by death, an expedient is employed which is both useful and full of terror. The tribune, assembling together all the soldiers of the legion, commands the criminals to be brought forwards: and, having sharply reproached them with their cowardice, he then draws out by lot either five, or eight, or twenty men, according to the number of those that have offended. For the proportion is usually so adjusted, that every tenth man is reserved for punishment. Those, who are thus separated from the rest by lot, are bastinated without remission in the manner before described. The others are sentenced to be fed with barley instead of wheat; and are lodged without the intrenchment, exposed to insults from the enemy. As the danger, therefore, and the dread of death, hangs equally over all the guilty, because no one can foresee upon whom the lot will fall; and as the shame and infamy of receiving barley only for their support is extended also alike to all; this institution is perfectly well contrived, both for impressing present terror, and for the prevention of future faults.

The method by which the young men are animated to brave all danger is also admirable. When an action has passed in which any of the soldiers have shewn signal proofs of courage, the consul, assembling the troops together, commands those to approach who have distinguished themselves by any eminent exploit. And having first bestowed on every one of them apart the commendation that is due to this particular instance of their valor, and recounted likewise all their former actions that have ever merited applause, he then distributes among them the following rewards. To him who has wounded an enemy, a

javelin. To him who has killed an enemy, and stripped him of his armor, if he be a soldier in the infantry, a goblet; if in the cavalry, furniture for his horse; though, in former times, this last was presented only with a javelin. These rewards, however, are not bestowed upon the soldiers who, in a general battle, or in the attack of a city, wound or spoil an enemy; but upon those alone who, in separate skirmishes, and when any occasion offers, in which no necessity requires them to engage in single contest, throw themselves voluntarily into danger, and with design provoke the combat. When a city is taken by storm, those who mount first upon the walls are honored with a golden crown. Those also who have saved the lives of any of the citizens, or the allies, by covering them from the enemy in the time of battle, receive presents from the consul, and are crowned likewise by the persons themselves who have thus been preserved, and who, if they refuse this office, are compelled by the judgment of the tribunes to perform it. Add to this, that those who are thus saved are bound, during the remainder of their lives, to reverence their preserver as a father, and to render to him all the duties which they would pay to him who gave them birth. Nor are the effects of these rewards, in raising a spirit of emulation and of courage, confined to those alone who are present in the army, but extended likewise to all the citizens at home. For those who have obtained those presents, beside the honor which they acquire among their fellow-soldiers, and the reputation which immediately attends them in their country, are distinguished after their return, by wearing in all solemn processions such ornaments as are permitted only to be worn by those who have received them from the consuls as the rewards of their valor. They hang up likewise in the most conspicuous parts of their houses the spoils which they have taken, as a monument and evidence of their exploits. Since such, therefore, is the attention and the care with which the Romans distribute rewards and punishments in their armies, it is not to be thought strange that the wars in which they engage are always ended with glory and success.

The military stipends are thus regulated. The pay of a soldier in the infantry is two oboli by the day; and double to the centurions. The pay of the cavalry is a drachma. The allowance of corn to each man in the infantry consists of about two-third parts of an Attic bushel of wheat by the month. In the cavalry, it is seven bushels of barley, and two of wheat. To the infantry of the allies the same quantity is distributed as to that of the Romans; but their cavalry receives only one bushel and a third of wheat, and five of barley. The whole of this

allowance is given without reserve to the allies. But the Roman soldiers are obliged to purchase their corn and clothes, together with the arms which they occasionally want, at a certain stated price, which is deducted by the quæstor from their pay.

In breaking up the camp the following order is observed. When the first signal is made, the soldiers all take down the tents, and collect the baggage. No tent, however, is at any time either set up or taken down until those of the consul and the tribunes are first set up, or first removed. Upon the second signal the baggage is placed upon the beasts of burden; and at the third, the foremost of the troops begin their march, and the whole camp is put in motion. In the van are usually placed the extraordinaries; and after these the right wing of the allies, which is followed by the baggage of both these bodies. Next to these marches the first of the Roman legions, with its baggage also behind it. The second legion follows; having behind it likewise both its own baggage, and the baggage of the allies, who are in the rear; for the rear of all the march is closed with the left wing of the allies. The cavalry marches sometimes in the rear of the respective bodies to which it belongs; and sometimes on the flanks of the beasts that are loaded with the baggage; keeping them together in due order, and covering them from insult. When an attack is expected to be made upon the rear, the extraordinaries of the allies, instead of leading the van, are posted in the rear. In all the other parts the disposition remains the same. Of the two legions, and the two wings of the allies, those that are on one day foremost in the march, on the following day are placed behind; that, by thus changing their rank alternately all the troops may obtain the same advantage in their turn, of arriving first at water and at forage. There is also another disposition which is used when any immediate danger threatens, and the march is made through an open country. At such times, the hastati, the principes, and the triarii, are ranged in three parallel lines, each behind the other, with the baggage of the hastati in the front. Behind the hastati is placed the baggage of the principes, who are followed likewise by that of the triarii; so that the baggage and the several bodies are mingled in alternate order. The march being thus disposed, the troops, as soon as an attack is made, turning either to the left or to the right, advance forwards from the baggage towards that side upon which the enemy appears. And thus, in a moment of time, and by one single movement, the whole army is formed at once in order of battle; except only that the hastati are perhaps obliged to make an evolution; and the beasts of burden also, with

all those that attend upon the baggage, being now thrown into the rear of all the troops, are covered by them from all danger.

At the end of a march, when the army arrives near the place of their encampment, a tribune and some centurions, who are appointed always for this purpose, advance before the rest. And having surveyed the whole ground upon which the encampment is to be made, they first determine the place of the consular tent, and on which side of it the legions may most commodiously be lodged. When this is done, they measure out the space that is allotted for the consul; and then draw a line for the place of the tents of the tribunes; and parallel to it another line, below which the legions are to be encamped. In the same manner also the several portions of the ground, which lies on the other side of the consular tent, and which we have already particularly described, are ascertained by lines. And as the distances are fixed, and well known by use, the admeasurement of the whole is easy, and soon completed. Four ensigns are then planted in the ground, the first in the place in which the tent of the consul is to be set up; the second, on that side of the consular ground which has been chosen for the front of the camp; the third in the middle of the line that is designed for the tents of the tribunes; and the last upon the other parallel line below which the legions are to be encamped. These ensigns are all of a purple color; that of the consul excepted, which is white. The portions on the other side of the consular ground are sometimes marked by simple pikes fixed in the ground, and sometimes by ensigns of some different color. Last of all, the several streets are drawn out by measure, and pikes also planted to denote the limits of each particular street. The necessary effect of this method is, that when the troops upon their march approach so near as to discover the place of their encampments, they are able to discern at once all the different parts of the camp; being taught by the ensign of the consul to point out and distinguish all the rest. And as they all occupy the same place always in the camp, so that each man knows in what particular street, and in what part also of the street, he is going to be lodged, their entrance very much resembles that of a body of soldiers into their own native city. For as these, already knowing, both in general and in particular, the quarters of the city in which their habitations stand, turn aside immediately from the gates, and arrive at their several houses without mistake; just so it happens in the Roman camp. It is to this facility indeed that the Romans chiefly attend upon such occasions; and, for the sake of obtaining it, pursue so contrary a method to that of the Greeks. For the Greeks, when they

encamp, consider principally the natural strength of the place that is chosen, and accommodate their disposition to it; being partly studious to avoid the labor of throwing up an entrenchment; and partly pursuaded also, that fortifications raised by art are always less secure than those that are made by nature. In compliance, therefore, with what the nature of the ground demands, they not only are obliged to give every kind of figure to their camp, but to vary also the position of the several parts, as the place for each is favorable or improper. And from hence it happens that the soldier never knows with certainty either his own place in the camp, or that of the body to which he belongs. But the Romans willingly submit to the task of making an entrenchment, and to other painful works, for the sake of the advantage that is found, in employing a method which is never changed, and which renders all the parts of the camp familiar to the army.

Such then in general are the institutions of the Romans, which belong to the establishment of their armies, and more especially to the manner of their encampment.

ROME AND CARTHAGE

The government of Carthage seems also to have been originally well contrived with regard to those general forms that have been mentioned. For there were kings in this government, together with a senate, which was vested with aristocratical authority. The people likewise enjoy the exercise of certain powers that were appropriated to them. In a word, the entire frame of the republic very much resembled those of Rome and Sparta. But at the time of the war of Hannibal the Carthaginian constitution was worse in its condition than the Roman. For as nature has assigned to every body, every government, and every action, three successive periods; the first, of growth; the second, of perfection; and that which follows, of decay; and as the period of perfection is the time in which they severally display their greatest strength; from hence arose the difference that was then found between the two republics. For the government of Carthage, having reached the highest point of vigor and perfection much sooner than that of Rome, had now declined from it in the same proportion: whereas the Romans, at this very time, had just raised their constitution to the most flourishing and perfect state. The effect of this difference was, that among the Carthaginians the people possessed the greatest sway in all

deliberations, but the senate among the Romans. And as, in the one republic, all measures were determined by the multitude; and, in the other, by the most eminent citizens; of so great force was this advantage in the conduct of affairs, that the Romans, though brought by repeated losses into the greatest danger, became, through the wisdom of their counsels, superior to the Carthaginians in the war.

If we descend to a more particular comparison, we shall find, that with respect to military science, for example, the Carthaginians, in the management and conduct of a naval war, are more skillful than the Romans. For the Carthaginians have derived this knowledge from their ancestors through a long course of ages; and are more exercised in maritime affairs than any other people. But the Romans, on the other hand, are far superior in all things that belong to the establishment and discipline of armies. For this discipline, which is regarded by them as the chief and constant object of their care, is utterly neglected by the Carthaginians; except only that they bestow some little attention upon their cavalry. The reason of this difference is, that the Carthaginians employ foreign mercenaries; and that on the contrary the Roman armies are composed of citizens, and of the people of the country. Now in this respect the government of Rome is greatly preferable to that of Carthage. For while the Carthaginians entrust the preservation of their liberty to the care of venal troops; the Romans place all their confidence in their own bravery, and in the assistance of their allies. From hence it happens, that the Romans, though at first defeated, are always able to renew the war; and that the Carthaginian armies never are repaired without great difficulty. Add to this, that the Romans, fighting for their country and their children, never suffer their ardor to be slackened; but persist with the same steady spirit till they become superior to their enemies. From hence it happens, likewise, that even in actions upon the sea, the Romans, though inferior to the Carthaginians, as we have already observed, in naval knowledge and experience, very frequently obtain success through the mere bravery of their forces. For though in all such contests a skill in maritime affairs must be allowed to be of the greatest use; yet, on the other hand, the valor of the troops that are engaged is no less effectual to draw the victory to their side.

Now the people of Italy are by nature superior to the Carthaginians and the Africans, both in bodily strength, and in courage. Add to this, that they have among them certain institutions by which the young men are greatly animated to perform acts of bravery. It will be suffi-

cient to mention one of these, as a proof of the attention that is shewn by the Roman government, to infuse such a spirit into the citizens as shall lead them to encounter every kind of danger for the sake of obtaining reputation in their country. When any illustrious person dies, he is carried in procession with the rest of the funeral pomp, to the rostra in the forum;; sometimes placed conspicuous in an upright posture; and sometimes, though less frequently, reclined. And while the people are all standing round, his son, if he has left one of sufficient age, and who is then at Rome, or, if otherwise, some person of his kindred, ascends the rostra, and extols the virtues of the deceased, and the great deeds that were performed by him in his life. By this discourse, which recalls his past actions to remembrance, and places them in open view before all the multitude, not those alone who were sharers in his victories, but even the rest who bore no part in his exploits, are moved to such sympathy of sorrow, that the accident seems rather to be a public misfortune, than a private loss. He is then buried with the usual rites; and afterwards an image, which both in features and complexion expresses an exact resemblance of his face, is set up in the most conspicuous part of the house, inclosed in a shrine of wood. Upon solemn festivals, these images are uncovered, and adorned with the greatest care. And when any other person of the same family dies, they are carried also in the funeral procession, with a body added to the bust, that the representation may be just, even with regard to size. They are dressed likewise in the habits that belong to the ranks which they severally filled when they were alive. If they were consuls or prætors, in a gown bordered with purple: if censors, in a purple robe: and if they triumphed, or obtained any similar honor, in a vest embroidered with gold. Thus appeared, they are drawn along in chariots preceded by the rods and axes, and other ensigns of their former dignity. And when they arrive at the forum, they are all seated upon chairs of ivory; and there exhibit the noblest objects that can be offered to youthful mind, warmed with the love of virtue and of glory. For who can behold without emotion the forms of so many illustrious men, thus living, as it were, and breathing together in his presence? Or what spectacle can be conceived more great and striking? The person also that is appointed to harangue, when he has exhausted all the praises of the deceased, turns his discourse to the rest, whose images are before him; and, beginning with the most ancient of them, recounts the fortunes and the exploits of every one in turn. By this method, which renews continually the remembrance of men celebrated for their virtue, the fame

of every great and noble action become immortal. And the glory of those, by whose services their country has been benefited, is rendered famliar to the people, and delivered down to future times. But the chief advantage is, that by the hope of obtaining this honorable fame, which is reserved for virtue, the young men are animated to sustain all danger, in the cause of the common safety. For from hence it has happened, that many among the Romans have voluntarily engaged in single combat, in order to decide the fortune of an entire war. Many also have devoted themselves to inevitable death; some of them in battle, to save the lives of other citizens; and some in time of peace to rescue the whole state from destruction. Others again, who have been invested with the highest dignities have, in defiance of all law and customs, condemned their own sons to die; showing greater regard to the advantage of their country, than to the bonds of nature, and the closest ties of kindred. Very frequent are the examples of this kind, that are recorded in the Roman story. I shall here mention one, as a signal instance, and proof of the truth of all that I have affirmed. Horatius, surnamed Cocles, being engaged in combat with two enemies, at the farthest extremity of the bridge that led into Rome across the Tiber, and perceiving that many others were advancing fast to their assistance, was apprehensive that they would force their way together into the city. turning himself, therefore, to his companions that were behind him, he called to them aloud, that should immediately retire and break the bridge. While they were employed in this work, Horatius, covered over with wounds, still maintained the post, and stopped the progress of the enemy; who were struck with his firmness and intrepid courage, even more than with the strength of his resistance. And when the bridge was broken, and the city secured from insult, he threw himself into the river with his armor, and there lost his life as he had designed: having preferred the safety of his country, and the future fame that was sure to follow such an action, to his own present existence, and to the time that remained for him to live. Such is the spirit, and such the emulation of achieving glorious action, which the Roman institutions are fitted to infuse into the minds of youth.

In things that regard the acquisition of wealth, the manners also, and the customs of the Romans, are greatly preferable to those of the Carthaginians. Among the latter, nothing is reputed infamous, that is joined with gain. But among the former, nothing is held more base than to be corrupted by gifts, or to covet an increase of wealth by means that are unjust. For as much as they esteem the possession of honest

riches to be fair and honorable, so much, on the other hand, all those that are amassed by unlawful arts, are viewed by them with horror and reproach. The truth of this fact is clearly seen in the following instance. Among the Carthaginians, money is openly employed to obtain the dignities of the state: but all such proceeding is a capital crime in Rome. As the rewards, therefore, that are proposed to virtue in the two republics are so diffierent, it cannot but happen, that the attention of the citizens to form their minds to virtuous actions must be also different.

But among all the useful institutions, that demonstrate the superior excellence of the Roman government, the most considerable perhaps is the opinion which the people are taught to hold concerning the gods: and that, which other men regard as an object of disgrace, appears in my judgment to be the very thing by which this republic chiefly is sustained. I mean, superstition: which is impressed with all it terrors; and influences both the private actions of the citizens, and the public administration also of the state, in a degree that can scarcely be exceeded. This may appear astonishing to many. To me it is evident, that this contrivance was at first adopted for the sake of the multitude. For if it were possible that a state could be composed of wise men only, there would be no need, perhaps, of any such invention. But as the people universally are fickle and inconstant, filled with irregular desires, too precipitate in their passions, and prone to violence; there is no way left to restrain them, but by the dread of things unseen, and by the pageantry of terrifying fiction. The ancients, therefore, acted not absurdedly, nor without good reason, when they inculcated the notions concerning the gods, and the belief of infernal punishments; but much more those of the present age are to be charged with rashness and absurdity, in indeavoring to extirpate these opinions. For, not to mention effects that flow from such an institution, if, among the Greeks, for example, a single talent only be entrusted to those who have the management of any of the public money; though they give ten written sureties, with as many seals and twice as many witnesses, they are unable to discharge the trusts reposed in them with integrity. But the Romans, on the other hand, who in the course of their magistracies, and in embassies, disperse the greatest sums, are prevailed on by the single obligation of an oath to perform their duties with inviolable honesty. And as, in other states, a man is rarely found whose hands are pure from public robbery; so, among the Roms, it is no less rare to discover one that is tainted with this crime.

But all things are subject to decay and change. This is a truth so evident, and so demonstrated by the perpetual and the necessary force of nature, that it needs no other proof. Now there are two ways by which every kind of government is destroyed; either by some accident that happens from without, or some evil that arises within itself. What the first will be is not always easy to foresee: but the latter is certain and determinate. We have already shown what are the original and what the secondary forms of government; and in what manner also they are reciprocally converted each into the other. Whoever, therefore, is able to connect the beginning with the end in this enquiry, will be able also to declare with some assurance what will be the future fortune of the Roman government. At least in my judgment nothing is more easy. For when a state, after having passed with safety through many and great dangers, arrives at the highest degree of power, and possesses an entire and undisputed sovereignty; it is manifest that the long continuence of prosperity must give birth to costly and luxurious manners, and that the minds of men will be heated with ambitious contest, and become too eager and aspiring in the pursuit of dignities. And as these evils are continually increased, the desire of power and rule, and the imagined ignominy of remaining in a subject state, will first begin to work the ruin of the republic; arrogance and luxury will afterwards advance it: and in the end the change will be completed by the people; as the avarice of some is found to injure and oppress them, and the ambition of others swells their vanity and poisons them with flattering hopes. For then, being with rage, and following only the dictates of their passions, they no longer will submit to any control, or be contented with an equal share of the administration, in conjunction with their rulers; but will draw to themselves the entire sovereignty and supreme direction of all affairs. When this is done, the government will assume indeed the fairest of all names, that of a free and popular state; but will, in truth, be the greatest of all evils, the government of the multitude.

As we have thus sufficiently explained the constitution and the growth of the Roman government; have marked the causes of that greatness in which it now subsists; and shown by comparison, in what view it may be judged inferior, and in what superior, to other states; we shall here close this discourse. But as every skilful artist offers some piece of work to public view, as a proof of his abilities: in the same manner we also, taking some part of history that is connected with the times from which we were led into this digression, and making

a short recital of one single action, shall endeavor to demonstrate by fact as well as words what was the strength, and how great the vigor, which at that time were displayed by this republic.

When Hannibal, after the battle of Cannæ, had taken prisoners eight thousand of the Romans, who were left to guard the camp; he permitted them to send a deputation to Rome, to treat of their ransom and redemption. Ten persons, the most illustrious that were among them, were appointed for this purpose: and the general, having first commanded them to swear that they would return to him again, suffered them to depart. But one of the number, as soon as they had passed the intrenchment, having said that he had forgotten something, went back into camp, took what he had left, and then continued his journey with the rest; persuading himself that by his return he had discharged his promise, and satisfied the obligation of the oath. When they arrived at Rome, they earnestly entreated the senate not to envy them the safety that was offered, but to suffer them to be restored to their families, at the price of three minæ for each prisoner, which was the sum that Hannibal demanded; that they were not unworthy of this favor; that they neither had through cowardice deserted their post in battle, nor done anything that had brought dishonor upon the Roman name; but that having been left to guard the camp, they had been thrown by unavoidable necessity, after the destruction of the rest of the army, into the power of the nemy. The Romans were at this time weakened by repeated losses; were deserted by almost every one of their allies; and seemed even to expect that Rome itself would instantly be attacked; yet when they had heard the deputies, they neither were deterred by adverse fortune from attending to what was fit and right, nor neglected any of those measures that were necessary to the public safety. But perceiving that the design of Hannibal in this proceeding was both to acquire a large supply of money and at the same time to check the ardor of his enemies in battle, by opening to their view the means of safety, even though they should be conquered, they were so far from yielding to this request, that they showed no regard either to the distressed condition of their fellow citizens, or to the services that might be expected from the prisoners: but resolved to disappoint the hopes and frustrate the intentions of this general, by rejecting all terms of ransom. They made a law also, by which it was declared that the soldiers that were left must either conquer or must die; and that no other hope of safety was reserved for them, in case that they were conquered. After this determination they dismissed the nine

deputies, who, on account of their oath were, willing to return, and taking the other, who had endeavored to elude by sophistry what he had sworn, they sent him bound back to the enemy; so that Hannibal was much less filled with joy from having vanquished the Romans in the field, than he was struck with terror and astonishment at the firmness and magnanimity that appeared in their deliberations.

THE GROWTH OF LUXURY

(For the growth of luxury under the Republic see also the sumptuary and Baccahanalian laws, the account of Gracchus, etc., under the Development of the Roman Constitution and Laws.)

THE PUBLIC GROUNDS FOR THE OVERTHROW OF THE REPUBLIC

These were the motives secretly existing with the chieftains; but *there were* public grounds for the warfare, which have ever overwhelmed mighty nations. For when, the world subdued, Fortune introduced wealth too great, and the manners gave way before prosperity, and booty and the spoils of the enemy induced luxurious habits; no moderation *was there* in gold or in houses; hunger, too, disdained the tables of former times; dresses hardly suitable for the matrons to wear, the males seized hold upon; poverty fruitful in men was shunned; and that was fetched from the entire earth by means of which each nation falls. Then did they join the lengthened boundaries of the fields, and the extended lands once turned up by the hard ploughshare of Camillus, and which had submitted to the ancient mattocks of the Curii, lay far and wide beneath the charge of husbandmen unknown *to their employers.*

This was not the people whom tranquil peace might avail, whom its own liberty might satisfy with arms unmoved. Thence *arose* ready broils, and the contemptible wickedness which poverty could prompt; and the great honor, and one worthy to be sought with the sword, to

have been able to do more than one's own country; might, too, was the measure of right; hence laws and decrees of the people constrained, and tribunes confounding their rights with consuls. Hence the Fasces snatched up at a price, and the populace itself the vendor of its own applause, and canvassing fatal to the city, bringing round the annual contests on the venal Plain *of Mars;* hence devouring usury, and interest greedy for each moment, and credit shaken, and warfare profitable to the many.—Lucan, Pharsalia, I.

LUXURY IN THE TIME OF TIBERIUS

Caius Sulpicius and Decimus Haterius were the next consuls. Their year was exempt from disturbances abroad; but at home some severe measures were apprehended against luxury, which was carried beyond all bounds in every thing which involved a profuse expenditure. But the more pernicious instances of extravagance were covered, as the cost was generally a secret; while from the sums spent in gluttony and revelry, as they were the subject of daily animadversion, apprehensions were raised of some severe corrective from a prince who observed himself the ancient parsimony. For, Caius Bibulus having begun the complaint, the other ædiles took it up, and declared "that the sumptuary laws were despised; the pomp and expense of plate and entertainments, in spite of restraints, increased daily, and by moderate penalties the evil could not be stopped." This grievance thus represented to the senate was by them referred entire to the emperor. Tiberius having long weighed with himself whether such propensities to prodigality could be stemmed,—whether the stemming it would not bring heavier evils upon the public,—how ignominous it would be to attempt what could not be effected, or which could only be effected by the disgrace and degradation of the most illustrious citizens, wrote at last to the senate in this manner:—

"In other matters, conscript fathers, perhaps it might be more expedient for you to consult me in the senate, and for me to declare there what I judge for the public weal; but in the debate on this affair it was best that my eyes were withdrawn, lest, while you marked the countenances and trepidation of individuals charged with extravagant luxury, I, too, should have observed them, and as it were caught them in it. Had the vigilant ædiles first asked counsel of me, I know not whether I should not have advised them rather to wink at overpowering and

inveterate corruptions, than only make it manifest what enormities are too strong for us; but they in truth have done their duty, as I would have all other magistrates fulfill theirs. But for myself, it is neither commendable to be silent, nor yet to speak out, since I neither bear the character of ædile, prætor, or consul; something still greater and higher is required of a prince. Every one is ready to assume to himself the credit of whatever is well done, while upon the prince alone are thrown the miscarriages of all. But what is it that I am first to prohibit, what excess retrench to the ancient standard? Am I to begin with that of our country seats, spacious without bounds; and with the number of domestics, from various countries? or with the quantity of silver and gold? or with the pictures, and statues of brass, the wonders of art? or with vestments, promiscuously worn by men and women? or with what is peculiar to the women—those precious stones,—for the purchase of which our coin is carried into foreign or hostile nations?

"Nor am I ignorant that at entertainments and in parties these excesses are censured, and a regulation is demanded; and yet, if an equal law were made, if equal penalties were prescribed, these very censors would loudly complain, 'that the state was utterly overturned, that every illustrious house was menaced with ruin, and that every citizen was exposed to criminal informations.' And yet, as bodily diseases grown inveterate and strengthened by time, can not be checked but by potent and violent remedies, so the morbid fire which rages in the mind, corrupted and corrupting, is not to be quenched but by remedies equally strong as its own flaming lusts. So many laws made by our ancestors, so many added by the deified Augustus; the former being lost in oblivion, and (which is more heinous) the latter in contempt, have only rendered luxury more secure; for when we covet a thing yet unforbidden, we are apt to fear that it may be forbidden; but when once we can with impunity overleap prohibited bounds, there remains afterward no fear for shame. Why then did parsimony prevail of old? It was because every one was a law to himself—it was because we were then the citizens of one city; nor afterward, while our dominion was confined to Italy, had we the same incentives to voluptuousness. By foreign conquests we learned to waste the property of others, and by civil wars to consume our own. How small is the evil of which the ædiles warn us! how lightly does it weigh in the balance with others! It is wonderful that nobody lays before the senate that Italy stands in need of foreign supplies; that the lives of the Roman people are daily exposed to the mercy of uncertain seas and tempests; were it not for our supplies from

the provinces—supplies by which the masters, and their slaves, and their estates, are maintained—will our groves, forsooth, and villas maintain us? This duty, conscript fathers, devolves upon the prince; and if it were neglected, the utter ruin of the state would follow. The remedies for the other maladies are all within our own breasts: some of us shame will reclaim,—necessity will mend the poor, satiety the rich. Or if any of the magistrates, from a confidence in his own strictness of principle and energy, will undertake to stem the progress of so great an evil, he has my praises, and my acknowledgement that he disburdens me of part of my labors; but if their will is merely to declaim against abuses, and when they have gained applause for the same leave me to bear the odium of proposing the measures they recommend, believe me, conscript fathers, I, too, am not fond of giving offense; and though I am content to encounter heavy, and for the most part unmerited animosities, for the good of the commonwealth, I am justified in deprecating such as are uncalled for and superfluous, and can be of no service either to me or to yourselves."

The senate, upon reading the emperor's letter, declined interfering in an affair of this nature, and sent it back to the ædiles; and the luxury of the table which, from the battle of Actium to the revolution by which Galba obtained the empire, a space of a hundred years, was practiced with the most costly profusion, began then gradually to decline. The causes of this change I would investigate. Formerly, noble families who were distinguished for opulence or the splendor of their fame, frequently fell into decay from a passion for magnificence: for even then it was allowed to court the good graces of the Roman people, the allies and potentates, and to be courted by them: each was distinguished for popularity and the number of clients, in proportion to his affluence, the splendor of his house, and the figure he made. But when tyrants shed the blood of their subjects, and the greatness of reputation formed a motive for destruction, those who escaped grew wiser: besides, men of no family frequently chosen senators from the municipal towns, from the colonies, and even from the provinces, brought with them the frugality they observed at home; and though, by good fortune or industry, many of them grew wealthy as they grew old, yet their former habits continued. But Vespasian was the great promoter of parsimonious living, himself a pattern of primitive strictness in his person and table: hence the compliance of the public with the manners of the prince; and the gratification of imitating him, operated more powerfully than the terror of laws and all their penalties. Or perhaps all human things go

a certain round, and there are revolutions in manners analogous to the vicissitudes of the seasons: nor indeed have our ancestors excelled us in all things; our own age has produced many bright examples in moral conduct and the arts, to excite the emulation of posterity. But for these we are indebted to our forefathers: and may these contests for pre-eminence in virtue continue.—Tacitus, Annals, III. 52-55.

EXTRAVAGANCE IN THE TIME OF NERO

Nero himself, to make it believed that he enjoyed himself nowhere so much as at Rome, caused banquets to be prepared in the public places, and used the whole city as his house. Remarkable above all others for the display of luxury and the noise it made in the world was the feast given by Tigellinus, which I will describe by way of specimen, that I may not have to repeat the instances of similar prodigality. For this purpose, he built, in the lake of Agrippa, a raft which supported the banquet, which was moved to and fro by other vessels, drawing it after them: the vessels were striped with gold and ivory, and rowed by bands of pathics, who were ranged according to their age, and accomplishments in the science of debauchery. He had procured fowl and venison from remote regions, with sea-fish even from the ocean: upon the margin of the lake were erected brothels, filled with ladies of distinction: over against them naked harlots were exposed to view: now, were beheld obscene gestures and motions; and as soon as darkness came on, all the neighboring groves and circumjacent dwellings resounded with music, and glared with lights. Nero wallowed in all sorts of defilements, lawful and unlawful; and seemed to leave no atrocity which could add to his pollution, till a few days afterward, he married, as a woman, one of this contaminated herd, named Pythagoras, with all the solemnities of wedlock; the Roman emperor put on the nuptial vail; the augurs, the portion, the bridal bed, the nuptial torches, were all seen; in fine, every thing exposed to view which, even in a female, is covered by the night.

There followed a dreadful disaster; whether fortuitously, or by the wicked contrivance of the prince, is not determined, for both are asserted by historians; but of all the calamities which ever befell this city from the rage of fire, this was the most terrible and severe. It broke out in that part of the Circus which is contiguous to mounts Palatine and Cœlius where, by reason of shops in which were kept such goods

as minister aliment to fire, the moment it commenced it acquired strength, and being accelerated by the wind, it spread at once through the whole extent of the Circus: for neither were the houses secured by inclosures, nor the temples environed with walls, nor was there any other obstacle to intercept its progress; but the flame, spreading every way impetuously, invaded first the lower regions of the city, then mounted to the higher; then again ravaging the lower, it baffled every effort to extinguish it, by the rapidity of its destructive course, and from the liability of the city to conflagration, in consequence of the narrow and intricate alleys, and the irregularity of the streets in ancient Rome. Add to this, the wailings of terrified women, the infirm condition of the aged, and the helplessness of childhood: such as strove to provide for themselves, and those who labored to assist others; these dragging the feeble, those waiting for them; some hurrying, others lingering; altogether created a scene of universal confusion and embarrassment: and while they looked back upon the danger in their rear, they often found themselves beset before, and on their sides: or if they had escaped into the quarters adjoining, these too were already seized by the devouring flames; even the parts which they believed remote and exempt, were found to be in the same distress. At last, not knowing what to shun, or where to seek sanctuary, they crowded the streets, and lay along in the open fields. Some, from the loss of their whole substance, even the means of their daily sustenance, others, from affection for their relations, whom they had not been able to snatch from the flames, suffered themselves to perish in them, though they had opportunity to escape. Neither dared any man offer to check the fire: so repeated were the menaces of many who forbade to extinguish it; and because others openly threw fire-brands, with loud declarations "that they had one who authorized them;" whether they did it that they might plunder with the less restraint, or in consequence of orders given.

Nero, who was at that juncture sojourning at Antium, did not return to the city till the fire approached that quarter of his house which connected the palace with the gardens of Mæcenas; nor could it, however, be prevented from devouring the house and palace, and every thing around. But for the relief of the people, thus destitute, and driven from their dwellings, he opened the field of Mars and the monumental edifices erected by Agrippa, and even his own gardens. He likewise reared temporary houses for the reception of the forlorn multitude: and from Ostia and the neighboring cities, were brought, up the river,

household necessaries; and the price of grain was reduced to three sesterces the measure. All which proceedings, though of a popular character, were thrown away, because a rumor had become universally current, "that at the very time when the city was in flames, Nero, going on the stage of his private theater, sang, 'The Destruction of Troy,' assimilating the present disaster to that catastrophe of ancient times."

At length, on the sixth day, the conflagration was stayed at the foot of Esquiliæ, by pulling down an immense quantity of buildings, so that an open space, and, as it were, void air, might check the raging element by breaking the continuity. But ere the consternation had subsided, the fire broke out afresh, with not little violence, but in regions more spacious, and therefore with less destruction of human life: but more extensive havoc was made of the temples, and the porticos dedicated to amusement. This conflagration, too, was the subject of more censorious remark, as it arose in the Æmilian possessions of Tigellinus: and Nero seemed to aim at the glory of building a new city, and calling it by his own name: for, of the fourteen sections into which Rome is divided, four were still standing entire, three were leveled with the ground, and in the seven others there remained only here and there a few remnants of houses, shattered and half consumed.

It were no very easy task to recount the number of tenements and temples which were lost: but the following, most venerable for antiquity and sanctity, were consumed: that dedicated by Servius Tullius to the Moon; the temple and great altar consecrated by Evander the Arcadian to Hercules while present; the chapel vowed by Romulus to Jupiter Stator; the palace of Numa, with the temple of Vesta, and in it the tutelar gods of Rome. Moreover, the treasures accumulated by so many victories, the beautiful productions of Greek artists, ancient writings of authors celebrated for genius, and till then preserved entire, were consumed: and though great was the beauty of the city, in its renovated form, the older inhabitants remembered many decorations of the ancient which could not be replaced in the modern city. There were some who remarked that the commencement of this fire showed itself on the fourteenth before the calends of July, the day on which the Senones set fire to the captured city. Others carried their investigation so far as to determine that an equal number of years, months, and days intervened between the two fires.

To proceed: Nero appropriated to his own purpose the ruins of his country, and founded upon them a palace; in which the old-fash-

ioned, and, in those luxurious times, common ornaments of gold and precious stones, were not so much the objects of attraction as lands and lakes; in one part, woods like vast deserts; in another part, open spaces and expansive prospects. The projectors and superintendents of this plan were Severus and Celer, men of such ingenuity and daring enterprise as to attempt to conquer by art the obstacles of nature, and fool away the treasures of the prince: they had even undertaken to sink a navigable canal from the lake Avernus to the mouth of the Tiber, over an arid shore, or through opposing mountains: nor indeed does there occur any thing of a humid nature for supplying water, except the Pomptine marshes; the rest is either craggy rock or a parched soil: and had it even been possible to break through these obstructions, the toil had been intolerable, and disproportioned to the object. Nero, however, who longed to achieve things that exceeded credibility, exerted all his might to perforate the mountains adjoining to Avernus: and to this day there remain traces of his abortive project.

But the rest of the old site not occupied by his palace, was laid out, not as after the Gallic fire, without discrimination and regularity, but with the lines of streets measured out, broad spaces left for transit, the height of the buildings limited, open areas left, and porticos added to protect the front of the clustered dwellings: these porticos Nero engaged to rear at his own expense, and then to deliver to each proprietor the areas about them cleared. He moreover proposed rewards proportioned to every man's rank and private substance, and fixed a day within which, if their houses, single and clustered, were finished, they should receive them: he appointed the marshes of Ostia for a receptacle of the rubbish, and that the vessels which has conveyed grain up the Tiber should return laden with rubbish; that the buildings themselves should be raised a certain portion of their height without beams, and arched with stone from the quarries of Gabii or Alba, that stone being proof against fire: that over the water springs, which had been improperly intercepted by private individuals, overseers should be placed, to provide for their flowing in greater abundance, and in a greater number of places, for the supply of the public: that every housekeeper should have in his yard means for extinguishing fire; neither should there be party-walls, but every house should be inclosed by its own walls. These regulations, which were favorably received, in consideration of their utility, were also a source of beauty to the new city: yet some there were who believed that the ancient form was more conducive to health, as from the narrowness of the streets and the

height of the buildings the rays of the sun were more excluded; whereas now, the spacious breadth of the streets, without any shade to protect it, was more intensely heated in warm weather.

Such were the provisions made by human counsels. The gods were next addressed with expiations; and recourse had to the Sibyl's books. By admonition from them to Vulcan, Ceres, and Proserpina, supplicatory sacrifices were made, and Juno propitiated by the matrons, first in the Capitol, then upon the nearest shore, where, by water drawn from the sea, the temple and image of the goddess were besprinkled; the ceremony of placing the goddess in her sacred chair, and her vigil, were celebrated by ladies who had husbands. But not all the relief that could come from man, not all the bounties that the prince could bestow, nor all the atonements which could be presented to the gods, availed to relieve Nero from the infamy of being believed to have ordered the conflagration. Hence, to suppress the rumor, he falsely charged with the guilt, and punished with the most exquisite tortures, the persons commonly called Christians, who were hated for their enormities. Christus, the founder of that name, was put to death as a criminal by Pontius Pilate, procurator of Judea, in the reign of Tiberius: but the pernicious superstition, repressed for a time, broke out again, not only through Judea, where the mischief originated, but through the city of Rome also, whither all things horrible and disgraceful flow, from all quarters, as to a common receptacle, and where they are encouraged. Accordingly, first those were seized who confessed they were Christians: next, on their information, a vast multitude were convicted, not so much on the charge of burning the city, as of hating the human race. And in their deaths they were also made the subjects of sport, for they were covered with the hides of wild beasts, and worried to death by dogs, or nailed to crosses, or set fire to, and when day declined, burned to serve for nocturnal lights. Nero offered his own gardens for that spectacle, and exhibited a Circensian game, indiscriminately mingling with the common people in the habit of a charioteer, or else standing in his chariot. Whence a feeling of compassion arose toward the sufferers, though guilty and deserving to be made examples of by capital punishment, because they seemed not to be cut off for the public good, but victims to the ferocity of one man.

In the mean time, in order to supply money, all Italy was pillaged, the provinces ruined: both the people in alliance with us, and the states which are called free. Even the gods were not exempt from plunder on this occasion, their temples in the city despoiled, and all the gold con-

veyed away, which the Roman people, in every age, either in gratitude for triumphs, or in fulfillment of vows, had consecrated, in times of prosperity, or in seasons of dismay. Through Greece and Asia, indeed, the gifts were carried off; Acratus and Secundus Carinas being sent into those provinces for the purpose: the former, Nero's freedman, a prompt instrument in any iniquity; the other, acquainted with Greek learning, so far as relates to lip-knowledge, but unadorned with virtuous accomplishments. Of Seneca it was reported, "that to avert from himself the odium of this sacrilege, he prayed to retire to a seat of his, remote from Rome, and being refused, feigned indisposition, as though his nerves were affected, and confined himself to his chamber." Some authors have recorded, "that a freedman of his, named Cleonicus, had, by the command of Nero, prepared poison for his master, who escaped it, either from the discovery made by the freedman, or from the caution inspired by his own apprehensions, as he supported nature by a diet perfectly simple, satisfying the cravings of hunger by wild fruits, and the solicitations of thirst from the running brook."—Tacitus, Annals, XV. 37-45.

ROME IN THE FOURTH CENTURY A. D.

BY AMMIANUS MARCELLINUS

Ammianus Marcellinus was born in Antioch, Syria, in the first quarter of the fourth century A. D. His family was probably a noble one. He was in the service of Constantius 350 A. D., and went under Julian to the war in Persia. He afterward left the army and spent the last years of his life in Rome, writing a history of the empire, the first one-third of which is lost. The remainder is reliable and of great value as a source of information on the period it covers.

We give his description of the life of the time at Rome. Any one following our accounts of habits and morals at Rome, will see that luxury first began to loosen their severity at the close of the Punic wars, that vice reigned supreme during the hundred years following the Civil war, that the customs of the century until the death of Aurelius were pure, and that the fault of the last centuries of the empire was that of over-refinement and degenerate fastidiousness rather than of such gross vice as Nero's or Caligula's.

The Accounts by Marcellinus

2. And since I think it likely that foreigners who may read this account (if, indeed, any such should meet with it) are likely to wonder how is it that, when my history has reached the point of narrating what was done at Rome, nothing is spoken of but seditions, and shops, and cheapness, and other similarly inconsiderable matters, I will briefly touch upon the causes of this, never intentionally departing from the strict truth.

3. At the time when Rome first rose in mundane brilliancy—that Rome which was fated to last as long as mankind shall endure, and to be increased with a sublime progress and growth—virtue and fortune, though commonly at variance, agreed with a treaty of eternal peace, as far as she was concerned. For if either of them had been wanting to her, she would never have reached her perfect and complete supremacy.

4. Her people, from its very earliest infancy to the latest moment of its youth, a period which extends over about three hundred years, carried on a variety of wars with the natives around its walls. Then, when it arrived at its full-grown manhood, after many and various labors in war, it crossed the Alps and the sea, till, as youth and man, it had carried the triumphs of victory into every country in the world.

5. And now that it is declining into old age, and often owes its victories to its mere name, it has come to a more tranquil time of life. Therefore the venerable city, after having bowed down the haughty necks of fierce nations, and given laws to the world, to be the foundations and eternal anchors of liberty, like a thrifty parent, prudent and rich, intrusted to the Cæsars, as to it own children the right of governing their ancestral inheritance.

6. And although the tribes are indolent, and the countries peaceful, and although there are no contests for votes, but the tranquility of the age of Numa has returned, nevertheless, in every quarter of the world Rome is still looked up to as the mistress and queen of the earth, and the name of the Roman people is respected and venerated.

7. But this magnificent splendor of the assemblies and councils of the Roman people is defaced by the inconsiderate levity of a few, who never recollect where they have been born, but who fall away into error and licentiousness, as if a perfect impunity were granted to vice. For as the lyric poet Simonides teaches us, the man who would live happily in

accordance with perfect reason, ought above all things to have a glorious country.

8. Of these men, some thinking that they can be handed down to immortality by means of statues, are eagerly desirous of them, as if they would obtain a higher reward from brazen figures unendowed with sense than from a consciousness of upright and honorable actions; and they even are anxious to have them plated over with gold, a thing which is reported to have been first done in the instance of Acilius Glabrio, who by his wisdom and valor had subdued King Antiochus. But how really noble a thing it is to despise all these inconsiderable and trifling things, and to bend one's attention to the long and toilsome steps of true glory, as the poet of Ascrea has sung, and Cato the Censor has shown by his example. For when he was asked how it was that while many nobles had statues he had none, he replied, "I had rather that good men should marvel how it was that I did not earn one, than (what would be a heavier misfortune) inquire how it was that I had obtained one."

9. Others place the height of glory in having a coach higher than usual, or splendid apparel; and so toil and sweat under a vast burden of cloaks, which are fastened to their necks by many clasps, and blow about from the excessive fineness of the material; showing a desire, by the continual wriggling of their bodies, and especially by the waving of the left hand, to make their long fringes and tunics, embroidered in multiform figures of animals with threads of various colors, more conspicuous.

10. Others, with not any one asking them, put on a feigned severity of countenance, and extol their patrimonial estates in a boundless degree, exaggerating the yearly produce of their fruitful fields, which they boast of possessing in numbers from east to west, being forsooth ignorant that their ancestors, by whom the greatness of Rome was so widely extended, were not eminent for riches; but through a course of dreadful wars overpowered by their valor all who were opposed to them, though differing but little from the common soldiers either in riches, or in their mode of life, or in the costliness of their garments.

11. This is how it happened that Valerius Publicola was buried by the contributions of his friends, and the destitute wife of Regulus was, with her children, supported by the aid of the friends of her husband, and that the daughter of Scipio had a dowry provided for her out of the public treasury, the other nobles being ashamed to see the beauty

of this full-grown maiden, while her moneyless father was so long absent on the service of his country.

12. But now if you, as an honorable stranger, should enter the house of any one well off, and on that account full of pride, for the purpose of saluting him, at first, indeed, you will be hospitably received, as though your presence had been desired; and after having had many questions put to you, and having been forced to tell a number of lies, you will wonder, since the man never had seen you before, that one of high rank should pay such attention to you, who are but an unimportant individual; so that by reason of this as a principal source of happiness, you begin to repent of not having come to Rome ten years ago.

13. And when relying on this affability you do the same thing the next day, you will stand waiting as one utterly unknown and unexpected, while he who yesterday encouraged you to repeat your visits, counts upon his fingers you who can be, marveling, for a long time, whence you come, and what you want. But when at length you are recognized and admitted to his acquaintance, if you devote yourself to the attention of saluting him for three years consecutively, and after this intermit your visits for an equal length of time, then if you return to repeat a similar course, you will never be questioned about your absence any more than if you had been dead, and you will waste your whole life in submitting to court the humors of this blockhead.

14. But when those long and unwholesome banquets, which are indulged in at certain intervals, begin to be prepared, or the distribution of the usual dole-baskets takes place, then it is discussed with anxious deliberation whether when those to whom a return is due are to be entertained, it is proper to invite also a stranger; and if, after the matter has been thoroughly sifted, it is determined that it may be done, that person is preferred who waits all night before the houses of charioteers, or who professes a skill in dice, or pretends to be acquainted with some peculiar secrets.

15. For such entertainers avoid all learned and sober men as unprofitable and useless; with this addition, that the nomenclators also, who are accustomed to make a market of these invitations and of similar favors, selling them for bribes, do for gain thrust in mean and obscure men at these dinners.

16. The whirlpool of banquets, and the various allurements of luxury, I omit, that I may not be too prolix, and with the object of passing on to this fact, that some people, hastening on without fear of danger, drive their horses, as if they were post-horses, with a regular

license, as the saying is, through the wide streets of the city, over the roads paved with flint, dragging behind them large bodies of slaves like bands of robbers; not leaving at home even Sannia, as the comic poet says.

17. And many matrons, imitating these men, gallop over every quarter of the city with their heads covered, and in close carriages. And as skillful conductors of battle place in the van their densest and strongest battalions, then their light-armed troops, behind them the darters, and in the extreme rear troops of reserve, ready to join in the attack if necessity should arise; so, according to the careful arrangements of the stewards of these city households, who are conspicuous by wands fastened to their right hands, as if a regular watchword had been issued from the camp, first of all, near the front of the carriage march all the slaves concerned in spinning and working; next to them come the blackened crew employed in the kitchen; then the whole body of slaves promiscously mixed up with a gang of idle plebeians from the neighborhood; last of all, the multitude of eunuchs, beginning with the old men and ending with the boys, pale and unsightly from the distorted deformity of their features; so that whichever way one goes, seeing troops of mutilated men, he will detest the memory of Semiramis, that ancient queen who was the first person to castrate male youths of tender age; doing as it were a violence to nature, and forcing it back from its appointed course, which at the very first beginning and birth of the child, by a kind of secret law revealing the primitive fountains of seed, points out the way of propagating posterity.

18. And as this is the case, those few houses which were formerly celebrated for the serious cultivation of becoming studies, are now filled with the ridiculous amusements of torpid indolence, re-echoing with the sound of vocal music and the tinkle of flutes and lyres. Lastly, instead of a philosopher, you find a singer; instead of an orator, some teacher of ridiculous arts is summoned; and the libraries closed for ever, like so many graves; organs to be played by water-power are made; and lyres of so vast a size, that they look like wagons; and flutes, and ponderous machines suited for the exhibitions of actors.

19. Last of all, they have arrived at such a depth of unworthiness, that when, no very long time ago, on account of an apprehended scarcity of food, the foreigners were driven in haste from the city; those who practised liberal accomplishments, the number of whom was exceedingly small, were expelled without a moment's breathing-time; yet the followers of actresses, and all who at that time pretended to be of such

a class, were allowed to remain; and three thousand dancing-girls had not even a question put to them, but stayed unmolested with the members of their choruses, and a corresponding number of dancing masters.

20. And wherever you turn your eyes, you may see a multitude of women with their hair curled, who, as far as their age goes, might, of they had married, been by this time the mothers of three children, sweeping the pavements with their feet till they are weary, whirling round in rapid gyrations, while representing innumerable groups and figures which the theatrical plays contain.

21. It is a truth beyond all question, that, when at one time Rome was the abode of all the virtues, many of the nobles, like the Lotophagi, celebrated in Homer, who detained men by the deliciousness of their fruit, allured foreigners of free birth by manifold attentions of courtesy and kindness.

22. But now, in their empty arrogance, some persons look upon everything as worthless which is born outside of the walls of the city, except only the childless and unmarried. Nor can it be conceived with what a variety of obsequious observance men without children are courted at Rome.

23. And since among them, as is natural in a city so great as to be the metropolis of the world, diseases attain to such an insurmountible degree of violence, that all the skill of a physician is ineffectual even to mitigate them; a certain assistance and means of safety has been devised, in the rule that no one should see a friend in such a condition, and to a few precautionary measures a further remedy of sufficient potency has been added, that men should not readmit to their houses servants who have been sent to inquire how a man's friends who may have been seized with an illness of this kind is, until they have cleansed and purified themselves in the bath. So that a taint is feared, even when it has only been seen with the eyes of another.

24. But nevertheless, when these rules are observed thus stringently, some persons, if they be invited to a wedding, though the vigor of their limbs be much diminished, yet, when gold is offered in the hollow palm of the right hand, will go actively as far as Spoletum. These are the customs of the nobles.

25. But of the lower and most indigent class of the populace some spend the whole night in the wine shops. Some lie concealed in the shady arcades of the theaters, which Catulus was in his ædilship the first person to raise, in imitation of the lascivious manners of Campania, or else they play at dice so eagerly as to quarrel over them, snuffing up

their nostrils and making unseemly noises by drawing back their breath into their noses; or (and this is their favorite pursuit of all others) from sunrise to evening they stay gaping through sunshine or rain, examining in the most careful manner the most sterling good or bad qualities of the charioteers and horses.

26. And it is very wonderful to see an innumerable multitude of people with great eagerness of mind intent upon the event of the contests in a chariot race. These pursuits, and others of like character, prevent anything worth mentioning or important from being done at Rome. Therefore we must return to our original subject—Ammianus Marcellinus, XIV, 6.

3. Ampelius succeeded to the government of the city; he also was a man addicted to pleasure, a native of Antioch, and one who from having been master of the offices was twice promoted to a proconsulship, and sometime afterwards to that supreme rank, the prefecture. In other respects he was a cheerful man, and one admirably suited to win the favor of his people; though sometimes over-severe, without being as firm in his purposes as might have been wished. Had he been, he would have corrected, though perhaps not effectually, the gluttonous and debauched habits which prevailed; but, as it was, by his laxity of conduct, he lost a glory which otherwise might have been enduring.

4. For he had determined that no wine-shop should be opened befor the fourth hour of the day; and that none of the common people, before a certain fixed hour, should either warm water or exposed dressed meat for sale; and that no one of respectable rank should be seen eating in public.

5. Since these unseemly practices, and others till worse, owing to long neglect and connivance, had grown so frequent that even Epimenides of Crete, if, according to the fabulous story, he could have risen from the dead or returned to our times, would have been unable by himself to purify Rome; such deep stains of incurable vices overwhelmed it.

6. And in the first place we will speak of the faults of the nobles, as we have already repeatedly done as far as our space permitted; and then we will proceed to the faults of the common people, touching, however, only briefly and rapidly on either.

7. Some men, conspicuous for the illustriousness of their ancestry as they think, give themselves immoderate airs, and call themselves

Reburri, and Fabunii, and Pagonii, and Geriones, Dalii, Tarracii, or Perrasii, and other finely-sounding appellations, indicating the antiquity of their family.

8. Some also are magnificent in silken robes, as if they were being led to execution, or, to speak without words of so favorable an omen, as if after the army had passed they were bringing up the rear, and are followed by a vast troop of servants, with a din like that of a company of soldiers.

9. Such men when, while followed by fifty servants apiece, they have entered the baths, cry out with threatening voice, "Where are my people?" And if they suddenly find out that any unknown female slave has appeared, or any worn-out courtesan who has long been subservient to the pleasures of the townspeople, they run up, as if to win a race, and patting and caressing her with disgusting and unseemly blandishments, they extol her, as the Parthians might praise Semiramis, Egypt her Cleopatra, the Carians Artemisia, or the Palmyrene citizens Zenobia. And men do this, whose ancestor, even though a senator, would have been branded with a mark of infamy because he dared, at an unbecoming time, kiss his wife in the presence of their common daughter.

10. Some of these, when any one meets and begins to salute them, toss their heads like bulls preparing to butt, offering their flatterers their knees or hands to kiss, thinking that quite enough for their perfect happiness; while they deem it sufficient attention and civility to a stranger who may happen to have laid them under some obligation to ask him what warm or cold bath he frequents, or what houses he lives in.

11. And while they are so solemn, looking upon themselves as especial cultivators of virtue, if they learn that any one has brought intelligence that any fine horses or skilful coachmen are coming from any place, they rush with as much haste to see them, examine them, and put questions concerning them, as their ancestors showed on beholding the twin-brothers Tyndaridæ, when they filled the whole city with joy by the announcement of that ancient victory.

12. A number of idle chatterers frequent their houses, and, with various pretended modes of adulation, applaud every word uttered by men of such high fortune; resembling the parasites in a comedy, for as they puff up bragging soldiers, attributing to them, as rivals of the heroes of old, sieges of cities, and battles, and the death of thousands of enemies, so these men admire the construction of the lofty pillars, and the walls inlaid with stones of carefully chosen colors, and extol these grandees with supernatural praises.

13. Sometimes scales are sent for at their entertainments to weigh the fish, or the birds, or the dormice which are set on the table; and then the size of them is dwelt on over and over again, to the great weariness of those present, as something never seen before; especially when near thirty secretaries stand by, with tablets and memorandum books, to record all these circumstances; so that nothing seems to be wanting but a schoolmaster.

14. Some of them, hating learning as they hate poison, read Juvenal and Marius Maximus with tolerably careful study; though, in their profound laziness, they never touch any other volumes; why, it does not belong to my poor judgment to decide.

15. For, in consideration of their great glories and long pedigrees, they ought to read a great variety of books; in which, for instance, they might learn that Socrates, when condemned to death and thrown into prison, asked some one who was playing a song of the Greek poet Stesichorus with great skill, to teach him also to do that, while it was still in his power; and when the musician asked him of what use this skill could be to him, as he was to die the next day, he answered, "that I may know something before I die."

16. And there are among them some who are such severe judges of offenses, that if a slave is too long in bringing them hot water, they will order him to be scourged with three hundred stripes; but should he intentionally have killed a man, while numbers insist that he ought to be unhesitatingly condemned as guilty, his master will exclaim, "What can the poor wretch do? What can one expect from a good-for-nothing fellow like that?" But should any one else venture to do anything of the kind he would be corrected.

17. Their ideas of civility are such that a stranger had better kill a man's brother than send an excuse to them if he be asked to dinner; for a senator fancies that he has suffered a terrible grievance, equal to the loss of his entire patrimony, if any guest be absent, whom, after repeated deliberations, he has once invited.

18. Some of them, if they have gone any distance to see their estates in the country, or to hunt at a meeting collected for their amusement by others, think they have equalled the marches of Alexander the Great, or of Cæsar; or if they have gone in some painted boats from Lake Avernus to Pozzuoli or Cajeta, especially if they have ventured on such an exploit in warm weather. Where if, amid their golden fans, a fly should perch on the silken fringes, or if a slender ray of the sun should have pierced through a hole in their awning, they complain that

they were not born among the Cimmerians.

19. Then, when they come from the bath of Silvanus, or the waters of Mamæa, which are so good for the health, after they come out of the water, and have wiped themselves with cloths of the finest linen, they open the presses, and take out of them robes so delicate as to be transparent, selecting them with care, till they have got enough to clothe eleven persons; and at length, after they have picked out all they choose, they wrap themselves up in them, and take the rings they had given to their attendants to hold, that they might not be injured by the damp; and then they depart when their fingers are properly cooled.

20. Again, if any one having quitted the military service of the emperor, has retired to his home (text mutilated).

21. Some of them, though not many, wish to avoid the name of gamblers, and prefer to be called dice-players; the difference being much the same as that between a thief and a robber. But this must be confessed that, while all friendships at Rome are rather cool, those alone which are engendered by dice are sociable and intimate, as if they had been formed amid glorious exertions, and were firmly cemented by exceeding affection; to which it is owing that some of this class of gamblers live in such harmony that you might think them the brothers Quintilii. And so you may sometimes see a man of base extraction, who knows all the secrets of the dice, as grave as Porcius Cato when he met with a repulse which he had never expected nor dreamt of, when a candidate for the prætorship, with affected solemnity and a serious face, because at some grand entertainment or assembly some man of proconsular rank has been preferred to himself.

22. Some lay siege of wealthy men, whether old or young, childless or unmarried, or even with wives and children (for with such an object no distinction is ever regarded by them), seeking by most marvelous tricks to allur them to make their wills; and then if, after observing all the forms of law, they bequeath to these persons what they have to leave, being won over by them to this compliance, they speedily die.

23. Another person, perhaps only in subordinate office, struts along with his head up, looking with so slight and passing a glance upon those with whom he was previously acquainted, that you might fancy it must be Marcus Marcellus just returned from the capture of Syracuse.

24. Many among them deny the existence of a superior power in heaven, and yet neither appear in public, dine, nor think that they can bathe with any prudence, before they have carefully consulted an alma-

nac, and learnt where (for example) the planet Mercury is, or in what portion of Cancer the moon is as she passes through the heavens.

25. Another man, if he perceives his creditor to be importunate in demanding a debt, flies to a charoteer who is bold enough to venture on any audacious enterprise, and takes care that he shall be harassed with dread of persecution as a poisoner; from which he cannot be released without giving bail and incurring a very heavy expense. One may add to this, that he includes under this head a debtor who is only so through the engagements into which he has entered to avoid a prosecution, as if he were a real debtor, and that he never lets him go till he has obtained the discharge of the debt.

26. On the other hand, a wife, who, as the old proverb has it, hammers on the same anvil day and night, to compel her husband to make his will, and then the husband is equally urgent that his wife shall do the same. And men learned in the law are procured on each side, the one in the bedchamber, and his opponent in the dining room, to draw up counter-documents. And under their employ are placed ambiguous interpreters of the contracts of their victims, who, on the one side, promise with great liberality high offices, and the funerals of weathly matrons; and from these they proceed to the obsequies of the husbands, giving hints that everything necessary ought to be prepared; and (text mutilated)* * as Cicero says, "Nor in the affairs of men do they understand anything good, except what is profitable; and they love those friends most (as they would prefer sheep) from whom they expect to derive the greatest advantage."

27. And when they borrow anything, they are so humble and cringing, you would almost think you were at a comedy, and seeing Micon or Laches; when they are contrained to repay what they have borrowed, they become so turgid and bombastic that you would take them for those descendants of Hercules, Cresphontes and Temenus. This is enough to say of the senatorial order.

28. And let us come to the idle and lazy common people, among whom some, who have not even got shoes, boast of high-sounding names; calling themselves Cimessores, Statarii, Semicupæ, Serapina, or Cicimbricus, or Gluturiorus, Trulla, Lucanicus, Pordaca, or Salsula, with numbers of other similar appellations. These men spend their whole lives in drinking and gambling, and brothels, and pleasures, and public spectacles; and to them the Circus Maximus is their temple, their home, their public assembly; in fact, their whole hope and desire.

29. And you may see in the form, and roads, and streets, and

places of meeting, knots of people collected, quarreling violently with one another, and objecting to one another, and splitting themselves into violent parties.

30. Among whom those who have lived long, having influence by reason of their age, their gray hairs and wrinkles, are continually crying out that the republic cannot stand, if in the contest which is about to take place the skillful charioteer, who some individual backs, is not foremost in the race, and does not dexteriously shave the turning-post with the trace-horses.

31. And when there is so much ruinous carelessness, when the wished-for day of the equestrian games dawns, before the sun has visibly risen, they all rush out with headlong haste, as if with their speed they would outstrip the very chariots which are going to race; while as to the event of the contest they are all torn asunder by opposite wishes, and the greater part of them, through their anxiety, pass sleepless nights.

32. From hence, if you go to some cheap theater, the actors on the stage are driven off by hisses, if they have not taken the precaution to conciliate the lowest of the people by gifts of money. And if there should be no noise, then, in imitation of the people in the Tauric Chersonese, they raise an outcry that the strangers ought to be expelled (on whose assistance they have always relied for their principal support), using foul and ridiculous expressions; such as are at variance with the pursuits and inclinations of that populace of old, whose many facetious and elegant expressions are recorded by tradition and by history.

33. For these clever gentlemen have now devised a new method of expressing applause, which is, at every spectacle to cry out to those who appear at the end, whether they are couriers, huntsmen, or charioteers—in short, to the whole body of actors, and to the magistrates, whether of great or small importance, and even to nations, "It is to your school that he ought to go." But what he is to learn there no one can explain.

34. Among these men are many chiefly addicted to fattening themselves up to gluttony, who, following the scent of any delicate food, and the shrill voices of the women who, from cockcrow, cry out with a shrill scream, like so many peacocks, and gliding over the ground on tiptoe, get an entrance into the halls, biting their nails while the dishes are getting cool. Others fix their eyes intently on the tainted meat which is being cooked, that you might fancy Democritus, with a number of

anatomists, was gazing into the entrails of sacrificed victims, in order to teach posterity how best to relieve internal pains.

35. For the present this is enough to say of the affairs of the city; now let us return to other events which various circumstances brought to pass in the provinces.—Ammianus Marcellinus, XXVIII. 4.

CICERO

MARCUS TULLIUS CICERO was the eldest son of a "knightly," though not noble, family. He was born 105 B. C. and was beheaded by Antony's soldiers in 43 B. C.

The path open for political honors to a "new" man was through the law, and at twenty-six, after a thorough Greek and Latin education, Cicero pleaded his first case. The next year he successfully defended Roscius against the favorite of Sulla, the dictator, and thought it best, during the rest of Sulla's dictatorship to travel for education and health. At thirty-two he was elected questor to Sicily, and because of his integrity while holding this magistracy, was soon afterward chosen by the Sicilians to prosecute Verres for extortion. He was curule aedile in 69 B. C., prætor urbanus in 66 B. C. In this year he supported Pompey for the eastern command, and the two never quite ceased to be friends. Cicero was consul in 63 B. C., and put down the conspiracy of Catiline. Sulla's constitution had been gradually changing since his death, and Cicero slowly came to side with the senate as against the plebs and to try to carry the "knights" with him. He might have been a member of the "First Triumvirate" but perhaps preferred the existing institutions to such high-handed measures. In 58 B. C. he was exiled through the effort of the demagogue Clodius, but was recalled the next year. When the civil war broke out between Cæsar and Pompey, Cicero tried to side with neither, but at length joined Pompey's army in Epirus. After the defeat at Pharsalia, Cicero, whom sickness had kept from the battle, returned to Italy and sought pardon of Cæsar.

When Cæsar was assassinated four years later, Cicero saw visions of the old republican government revived once more, and delivered his

fierce phillipics against Antony, but upon the coalition of Octavius and Antony, was proscribed by Antony and killed.

As a thinker, Cicero was somewhat of an eclectic. We give here his argument for the natural basis of all law, his analysis of Roman religious and civil law, and discussion of the question of immortality.

PRINCIPLES OF LAW

IV. MARCUS—LET US, then, once more examine, before we come to the consideration of particular laws, what is the power and nature of law in general; lest, when we come to refer everything to it, we occasionally make mistakes from the employment of incorrect language, and show ourselves ignorant of the force of those terms which we ought to employ in the definition of laws.

Quintus.—This is a very necessary caution, and the proper method of seeking truth.

Marcus.—This, then, as it appears to me, has been the decision of the wisest philosophers—that law was neither a thing to be contrived by the genius of man, nor established by any decree of the people, but a certain *eternal principle,* which governs the entire universe wisely commanding what is right and prohibiting what is wrong. Therefore they called that aboriginal and supreme law the mind of God, enjoining or forbidding each separate thing in accordance with reason. On which account it is, that this law, which the gods have bestowed upon the human race, is so justly applauded. For it is the reason and mind of a wise Being equally able to urge us to good or to deter us from evil.

Quintus.—You have, on more than one occasion, already touched on this topic. But before you come to treat of the laws of nations, I wish you would endeavor to explain the force and power of this divine and celestial law, lest the torrent of custom should overwhelm our understanding, and betray us into the vulgar method of expression.

Marcus.—From our childhood we have learned, my Quintus, to call such phrases as this, "that a man appeals to justice, and goes to law," and many similar expressions, law, but, nevertheless, we should understand that these, and other similar commandments and prohibitions, have sufficient power to lead us on to virtuous actions and to call us

away from vicious ones. Which power is not only far more ancient than any existence of states and people, but is coeval with God himself, who beholds and governs both heaven and earth. For it is impossible that the divine mind can exist in a state devoid of reason; and divine reason must necessarily be possessed of a power to determine what is virtuous and what is vicious. Nor, because it was nowhere written, that one man should maintain the pass of a bridge against the enemy's whole army, and that he should order the bridge behind him to be cut down, are we therefore to imagine that the valiant Cocles did not perform this great exploit agreeably to the laws of nature and the dictates of true bravery. Again, though in the reign of Tarquin there was no written law concerning adultery, it does not therefore follow that Sextus Tarquinius did not offend against the eternal law when he committed a rape on Lucretia, daughter of Tricipitius. For, even then, he had the light of reason from the nature of things, that incites to good actions and dissuades from evil ones; and which does not begin for the first time to be a law when it is drawn up in writing, but from the first moment that it exists. And this existence of moral obligation is co-eternal with that of the divine mind. Therefore, the true and supreme law, whose commands and prohibitions are equally authoritative, is the right reason of the Sovereign Jupiter.

V. *Quintus.*—I grant you, my brother, that whatever is just is also at all times the true law; nor can this true law either be originated or abrogated by the written forms in which decrees are drawn up.

Marcus.—Therefore, as that Divine Mind, or reason, is the supreme law, so it exists in the mind of the sage, so far as it can be perfected in man. But with respect to civil laws, which are drawn up in various forms, and framed to meet the occasional requirements of the people, the name of law belongs to them not so much by right as by the favor of the people. For men prove by some such arguments as the following, that every law which deserves the name of a law, ought to be morally good and laudable. It is clear, say they, that laws were originally made for the security of the people, for the preservation of states, for the peace and happiness of society; and that they who first framed enactments of that kind, persuaded the people that they would write and publish such laws only as should conduce to the general morality and happiness, if they would receive and obey them. And then such regulations, being thus settled and sanctioned, they justly entitled *Laws*. From which we may reasonably conclude, that those who made unjustifiable and pernicious enactments for the people, acted in a manner con-

trary to their own promises and professions, and established anything rather than *laws,* properly so called, since it is evident that the very signification of the word *law,* comprehends the whole essence and energy of justice and equity.

I would, therefore, interrogate you on this point, my Quintus, as those philosophers are in the habit of doing. If a state wants something for the want of which it is reckoned no state at all, must not that something be something good?

Quintus.—A very great good.

Marcus.—And if a state has no law, is it not for that reason to be reckoned no state at all?

Quintus.—We must needs say so.

Marcus.—We must therefore reckon law among the very best things.

Quintus.—I entirely agree with you.

Marcus.—If, then, in the majority of nations, many pernicious and mischievous enactments are made, which have no more right to the name of law than the mutual engagement of robbers, are we bound to call them laws? For as we cannot call the recipes of ignorant and unskillful empirics, who give poisons instead of medicines, the prescriptions of a physician, so likewise we cannot call that the true law of a people, of whatever kind it may be, if it enjoins what is injurious, let the people receive it as they will. For law is the just distinction between right and wrong, made conformable to that most ancient nature of all, the original and principal regulator of all things, by which the laws of men should be measured, whether they punish the guilty or protect and preserve the innocent.

VI. *Quintus.*—I quite understand you, and think that no law but that of justice should either be proclaimed as one or enforced as one.

Marcus.—Then you regard as null and void the laws of Titius and Apuleius, because they are unjust.

Quintus.—Yes; and I would say the same of the laws of Livius.

Marcus.—You are right, and so much more the more, since a single vote of the senate would be sufficient to abrogate them in an instant. But that law of justice, the power of which I have explained, can never be abrogated.

Marcus.—Certainly, if I could get you both to agree with me. But Plato, that wisest of all men, that most dignified of all philosophers, who was the first man who ever composed a treatise on a Commonwealth, and afterwards a separate one on Laws, induces me to follow

his illustrious example, and to proclaim the praises of law, before I begin to recite its regulations. Such, likewise, was the practice of Zaleucus and Charondas, who wrote the laws which they gave their cities, not for the sake of study or amusement, but for the benefit of their country and their fellow-citizens. And imitating them, Plato considered that it was the property of law, to persuade in some instances, and not to compel everything by threats and violence.

Quintus.—What, do you venture to cite Zeleucus, when Timaeus denies that he ever existed?

Marcus.—But Theophrastus, an author, in my opinion, quite as respectable, and as may think, much more so, corroborates my statement. His fellow-citizens, too, my clients, the Locrians, commemorate him; but whether he was a real man or not, is of no great consequence to our argument; we are only speaking according to tradition.

VII. Let this, therefore, be a fundamental principle in all societies, that the gods are the supreme lords and governors of all things—that all events are directed by their influence, and wisdom, and Divine power; that they deserve very well of the race of mankind; and that they likwise know what sort of person every one really is; that they observe his actions, whether good or bad; that they take notice with what feelings and with what piety he attends to his religious duties, and that they are sure to make a difference between the good and the wicked.

For when once our minds are confirmed in these views, it will not be difficult to inspire them with true and useful sentiments. For what can be more true than that no man should be so madly presumptuous as to believe that he has either reason or intelligence, while he does not believe that the heaven and the world possess them likewise, or to think that those things which he can scarcely comprehend by the greatest possible exertion of his intellect, are put in motion without the agency of reason?

In truth, we can scarcely reckon him a man, whom neither the regular courses of the stars, nor the alterations of day and night, nor the temperature of the seasons, nor the productions that nature displays for his use and enjoyment, urge to gratitude towards heaven.

And as those beings which are furnished with reason are incomparably superior to those which want it, and as we can not say, without impiety, that anything is superior to the universal Nature, we must therefore confess that divine reason is contained within her. And who will dispute the utility of these sentiments, when he reflects how many

cases of the greatest importance are decided by oaths; how much the sacred rites performed in making treaties tend to assure peace and tranquility; and what numbers of people the fear of divine punishment has reclaimed from a vicious course of life; and how sacred the social rights must be in a society where a firm persuasion obtains the immediate intervention of the immortal gods, both as witnesses and judges of our actions? Such is the "preamble of the law," to use the expression of Plato.

Quintus.—I understand you, my brother; and I am greatly pleased to find that you take a different view of the subject, and dwell upon other points of it, than those which he selects, for nothing can less resemble his opinions, than what you have just now asserted, even in this preamble. The only matter in which you seem to me to imitate him, is his style and language.

Marcus.—I wish, indeed, I did, but who is, or who ever will be able to translate them, and, indeed, that is what I should do if I did not wish to be altogether original. For what difficulty is there in stating the same doctrines as he does, translated from him almost word for word?

Quintus.—I entirely agree with you; for as you have just remarked, your arguments ought to be entirely your own. Begin, then, if you will do us a favor, and expound the laws of religion.

Marcus.—I will explain them as well as I can; and since both the topic and the conversation is a familar one, I shall begin by describing the laws of laws.

Quintus.—What laws do you mean?

Marcus.—There are certain terms in law, my Quintus, not so ancient as those in the primitive sacred laws, but still, in order to carry with them greater authority, being of a somewhat greater antiquity than the common parlance of people. These legal terms, I shall mention with as much brevity as possible; and I shall endeavor to expound the laws, not, indeed, in their whole extent, for this would be a boundless subject, but those which involve the principles, and contain the sum and substance of the rest.

Quintus.—This appears a most desirable method; let us therefore hear the terms of the law.

VIII. *Marcus.*—Such are the following:—Let men approach the gods with purity—let men appear before them in the spirit of devotion—let men remove riches from their temples; whoever doth otherwise shall suffer the vengeance of heaven—let no one have private gods—

neither new gods nor strange gods, unless publicly acknowledged, are to be worshiped privately—let the temples which our fathers have constructed in the cities, be upheld—let the people maintain the groves in the country, and the abodes of the Lares—let men preserve the customs of their fathers and of their family—let the gods who have been accounted celestial be worshiped, and those likewise who have merited celestial honors by their illustrious actions, such as Hercules, Bacchus, Æsculapius, Castor, Pollux, and Quirinus. Let due honor be likewise paid to those virtues, by which man is exalted to heaven—as Intelligence, Valor, Piety, Fidelity; and let temples be consecrated to their honor—with regard to the vices, let no sacred sacrifies be paid to them.

Let men put aside all contentions of every kind on the sacred festivals, and let servants enjoy them, their toils being remitted, for therefore they were appointed at certain seasons.—Let the priests duly render the public thank-offerings to heaven, with herbs and fruits, on the sacrificial days. Also, on the appointed holidays, let them offer up the cream of milk, and the sucklings; and lest the priests should commit any mistakes in these sacrifices, or the season of these sacrifices, let them carefully observe the calendar, and the revolutions of the stars.—Let them provide those particular victims which are most appropriate and agreeable to each particular deity.—Let the different gods have different orders of priests (sacerdotes).—Let them all have pontiffs in common; and let each separate god have his Flamen.

Let the Vestal Virgins in the city carefully keep the eternal fire of the public altar always burning; and, that this may be done both publicly and privately with all due form and ceremony, let those who are not instructed in the order of the ceremonials learn it from the public priests. Let there be two classes of these priests, one to preside over ceremonials and sacrifices, and the other to interpret the obscure predictions of the prophets and diviners, whenever the senate and the people require it. Let the public Augurs, who are the interpreters of the all-good and all-great Jupiter, likewise examine the presages and the auspices, according to the discipline of their art. Let the priests who are conversant in auguries implore prosperity for the vineyards and gardens, and pray for the general welfare of the people. Let those who give counsel in military or civic affairs attend to the auspices, and be guided by them. Let them guard against the anger of heaven, and appease it; and observe from what part of heaven the lightnings burst forth. Let them declare what lands, cities, and temples, are to be held free and consecrated. Whatever things the augur declares to be un-

just, ill-omened, vicious, and accursed, let them be forsaken as prohibited and disastrous, and whoever will not obey these divine indications, let him suffer capital punishment.

IX. As to alliances, peace, war, truces, and the rights of ambassadors, let the two Feciales be the appropriate judges, and let them determine all questions relating to military affairs. Let them report all prodigies and portents to the Etruscans and soothsayers, if the senate orders it; and let the chiefs of Etruria explain their system. Then will they learn what deities it behoves them to propitiate, and deprecate the fury of the thunderbolt against the object of its vengeance.

Let there be no nocturnal sacrifices performed by women, except those which they offer according to custom on behalf of the people; and let none be initiated in the mysteries except by the usual forms consecrated to Ceres, according to the Grecian ceremonials.

A crime which has been committed and can not be expiated has been an act of impiety; as to the faults which can be expiated, let the public priests expiate them.

Let men temper the public hilarity with song, and harp, and flute at the public games, as far as can be done without the games of the race-course and the wrestling-matches, and let them unite these amusements with the honors of the gods. Let them retain whatever is best and purest in the ancient form of worship. Except the devotees of Cybele, to whom this privilege is allowed on certain days, let no one presume to levy rates for private emolument. Whoever purloins or robs any temple, or steals any property deposited in a temple, shall be accounted a parricide. The divine punishment of perjury is destruction—the human penalty is infamy. With regard to incest, let the chief priest sentence it to the extremest penalty of the law.

Let not the impius man attempt to appease the gods by gifts and offerings. Let vows be carefully performed. Wherever law is violated let its punishments be executed. Let no private person presume to consecrate his land; and let his consecration of gold, silver, and ivory, be made within the limits of moderation. Let the sacred actions of private persons be perserved for ever. Let the rights of the deities of the dead be considered sacred. Let those who have passed into the world of souls be considered as deified! but let men diminish the unnecessary expense and sorrow which is lavished on them.

X. *Atticus.*—You have managed to include a great deal of law in a very small compass; but it seems to me, that this class of religious

maxims does not much differ from the laws of Numa and our national regulations.

Marcus.—Do you suppose, then, that when, in my Treatise on the Commonwealth, Scipio appears to be arguing that our ancient Roman Commonwealth was the best of all republics, it was not indispensible that I should give laws of corresponding excellence to that best of all republics.

Atticus.—Undoubtedly I think you should.

Marcus.—Well, then, you may expect such laws as may embrace that most perfect kind of republic. And if any others should haply be demanded of me this day, which are not to be found, and never have existed, in our Roman Commonwealth, yet even these formed a portion of the customs of our ancestors, which at that time were maintained as religiously as the laws themselves.—On the Laws, Bk. II.

I. *Marcus.*—I shall, therefore, imitate that divine man, who has inspired me with such admiration that I eulogize him perhaps oftener than is necessary.

Atticus.—You mean Plato.

Marcus.—The very man, my Atticus.

Atticus.—Indeed you do not exaggerate your compliments, nor bestow them too frequently, for even my Epicurean friends, who do not like any one to be praised but their own master, still allow me to love Plato as much as I like.

Marcus.—They do well to grant you this indulgence, for what can be so suitable to the elegance of your taste as the writings of Plato?—who in his life and manners appears to me to have succeeded in that most difficult combination of gravity and politeness.

Atticus.—I am glad I interrupted you, since you have availed yourself of an opportunity of giving this splendid testimonial of your judgment respecting him; but to pursue the subject as you began.

Marcus.—Let us begin, then, with praising the law itself, with those commendations which are both deserved and appropriate to the subject.

Atticus.—That is but fair, since you did the same in the case of our ecclesiastical jurisprudence.

Marcus.—You see, then, that this is the duty of magistrates, to superintend and prescribe all things which are just and useful, and in accordance with the law. For as the law is set over the magistrate, even so are the magistrates set over the people. And, therefore, it may

be truly said, "that the magistrate is a speaking law, and the law is a silent magistrate."

Moreover, nothing is so conformable to justice and to the condition of nature (and when I use that expression, I wish it to be understood that I mean the law, and nothing else,) as sovereign power; without which, neither house, nor commonwealth, nor nation, nor mankind itself, nor the entire nature of things, nor the universe itself, could exist. For this universe is obedient to God, and land and sea are submissive to the universe; and human life depends on the just administration of the laws of the universe; and human life depends on the just administration of the laws of order.

II. But to come to considerations nearer home, and more familiar to us, all ancient nations have been at one time or other under the dominion of kings. Which kind of authority was at first conferred on the wisest and justest of men. (And this rule mainly prevailed in our own commonwealth, as long as the regal power lasted.) Afterword, the authority of kings was handled down in succession to their decendants, and this practice remains to this day in those which are governed by kings. And even those to whom the regal domination was distasteful, did not desire to be obedient to no one, but only to be always under the authority of the same person.

For ourselves, then, as we are proposing laws for a free people, and we have have already set forth in six books all our own opinions about the best kind of commonwealth, we shall on the present occasion endeavor to accommodate our laws to that constitutional government of which we have expressed our approval.

It is clear, then, that magistrates are absolutely necessary; since, without their prudence and diligence, a state cannot exist; and since it is by their regulations that the whole commonwealth is kept within the bounds of moderation. But it is not enough to prescribe them a rule of domination, unless we likewise prescribe the citizens a rule of obedience. For he who commands well, must at some time or other have obeyed; and he who obeys with modesty appears worthy of some day or other being allowed to command. It is desirable, therefore, that he who obeys should expect that some day he will come to command, and that he who commands should bear in mind that ere long he may be called to the duty of submission.

We would not, however, limit ourselves to requiring from the citizens submission and obedience towards their magistrates; we would also enjoin them by all means to honor and love their rulers, as Char-

ondas prescribes in his code. Our Plato likewise declares that they are of the race of the Titans, who, as they rebelled against the heavenly deities, do in like manner oppose their magistrates. These points being granted, we will, if you please, advance to the examination of the laws themselves.

Atticus.—I certainly do please, and the arrangement seems advisable.

III. *Marcus.*—"Let all authorities be just, and let them be honestly obeyed by the people with modesty and without opposition. Let the magistrate restrain the disobedient and mischievous citizen, by fine, imprisonment, and corporal chastisement; unless some equal or greater power, or the people forbid it; for there should be an appeal thereto. If the magistrate shall have decided, and inflicted a penalty, let there be a public appeal to the people respecting the penalty and fine imposed.

"With respect to the army, and the general that commands it by martial law, there should be no appeal from his authority. And whatever he who conducts the war commands, shall be absolute law, and ratified as such.

"As to the minor magistrates, let there be such a distribution of their legal duties, that each may more effectively superintend his own department of justice. In the army let those who are appointed command, and yet them have tribunes. In the city, let men be appointed as superintendents of the public treasury. Let some devote their attention to the prison discipline, and capital punishments. Let others supervise the public coinage of gold, and silver, and copper. Let others judge suits and arbitrations; and let others carry the orders of the senate into execution.

'Let there likewise be ædiles, curators of the city, the provisions, and the public games, and let these offices be the first steps to higher promotions of honor.

"Let the censors take a census of the people, according to age, offspring, family, and property. Let them have the inspection of the temples, the streets, the aqueducts, the rates, and the customs. Let them distribute the citizens, according to their tribes: after that let them divide them with reference to their fortunes, ages, and ranks. Let them keep a register of the families of those of the equestrian and plebeian orders. Let them impose a tax on celibates. Let them guard the morals of the people. Let them permit no scandal in the senate. Let the number of such censors be two. Let their magistracy continue five

years. Let the other magistrates be annual, but their offices themselves should be perpetual.

"Let the judge of the law who shall decide private actions, or send them for decision to the prætor—let him be the proper guardian of civil jurisprudence. Let him have as many colleagues of equal power, as the senate think necessary, and the people allows him.

"Let two magistrates be invested with sovereign authority; from their presiding, judging, and counselling, let them be called prætors judges, or consuls. Let them have supreme authority over the army, and let them be subject to none; for the safety of the people is the supreme law; and no one should succeed to this magistracy till it has been held ten years—regulating the duration by an annual law.

"When a considerable war is undertaken, or discord is likely to ensue among the citizens, let a single supreme magistrate be appointed, who shall unite in his own person the authority of both consuls, if the senate so decrees, for six months only. And when such a magistrate has been proclaimed under favorable auspices, let him be the master of the people. Let him have for a colleague, with equal powers with himself, a knight whomsoever he may choose to appoint, as judge of the law. And when such a dictator or master of the people is created the other magistrates shall be suppressed.

"Let the auspices be observed by the senate, and let them authorize persons of their body to elect the consuls in the comitia, according to the established ceremonials.

"Let the commanders, generals, and lieutenants, leave the city whenever the senate decrees or the people orders that they shall do so. Let them properly prosecute all just wars. Let them spare our allies, and restrain themselves and their subordinates. Let them increase the glory of our country. Let them return home with honor. Let no one be made an ambassador with a view to his own interest.

"Let the ten officers whom the people elect to protect them against oppression be their tribunes; and let all their prohibitions and adjudications be established, and their persons considered inviolable, so that tribunes may never be wanting to the people.

"Let all magistrates possess their auspices and jurisdictions, and let the senate be composed of these legitimate authorities. Let its ordinances be absolute, and let its enactments be written and ratified, unless an equal or greater authority disannul them. Let the order of the senators be free from reproach and scandal, and let them be an example of virtue to all.

"In the creation of magistrates, the judgment of the accused, and the reception or rejection of laws, when suffrages are employed, let the suffrages be at once notorious to the nobles, and free to the people.

IV. "If any question occur out of the established jurisdiction of the magistrates, let another magistrate be appointed by the people, whose jurisdiction shall expressly extend thereto. Let the consul, the prætor, the censor, the master of the people and of the knights, and he to whom the senate has committed the election of consuls, have full liberty to treat both with the senate and the people, and endeavor to reconcile the interests of all parties. Let the tribunes of the people likewise have free access to the senate, and advocate the interests of the people in all their deliberations. Let a just moderation predominate in the opinions and declarations of those who would thus act as mediators between the senate and the people. Let a senator who does not attend the senate, either show cause of his non-attendance, or submit to an appropriate fine. Let a senator speak in his turn, with all moderation, and let him be thoroughly acquainted with the interests of the people.

"By all means avoid violence among the people. Let the greatest authority have the greatest weight in decisions. If any one shall disturb the public harmony, and foment party quarrels, let him be punished as a criminal. To act the intercessor in cases of offence should be considered the part of a good citizen. Let those who act observe the auspices; obey the public augur, and carry into effect all proclamations, taking care that they are exhibited in the treasury and generally known. Let the public consultations be concentrated in one point at a time, let them instruct the people in the nature of the question, and let all the magistrates and the people be permitted to advise on the subject.

"Let them permit no monopolies, or privileges. With respect to the capital punishment of any citizen, let it not take place, unless by the adjudication of the high courts of justice, and the ministry of those whom the censors have placed over the popular orders. Let no bribes be given or received, either in soliciting, discharging, or resigning an official situation.

"If any one infringe any of these laws, let him be liable to a penalty. Let these regulations be committed to the charge of the censors. Let public officers, on their retiring from their posts, give the censors an account of their conduct, but let them not by this means escape from legal prosecution if they have been guilty of corruption."

I have here recited the whole law; now, consider the question, and give your votes.

V. *Quintus.*—With what conciseness, my brother, have you brought before our eyes the duties and offices of all magistrates! But your system of laws is almost that of our own commonwealth, although a little that is new has also been added by you.

Marcus.—Your observation is very just, my Quintus, for this is the very system of a commonwealth which Scipio eulogises in my treatise, and which he mainly approves—and which can not be kept in operation but by a successive order of magistrates, such as we have described. For you may take it for granted that it is the establishment of magistrates that gives its form to a commonwealth, and it is exactly by their distribution and subordination that we must determine the nature of the constitution. Which establishment being very wisely and discretely settled by our ancestors, there is nothing, or at all events very little alteration that I think necessary in the laws.—On the Laws, Bk. III.

TRANSLATION OF C. D. YONGE.

THE BEST FORM OF GOVERNMENT

THEN LAELIUS SAID—But you have not told us, Scipio, which of these three forms of government you yourself most approve.

Scipio.—You are right to shape your question, which of the three I most approve, for there is not one of them which I approve at all by itself, since, as I told you, I prefer that government which is mixed and composed of all these forms, to any one of them taken separately. But if I must confine myself to one of the particular forms simply and exclusively, I must confess I prefer the royal one, and praise that as the first and best. In this, which I here choose to call the primitive form of government, I find the title of *father* attached to that of king, to express that he watches over the citizens as over his children, and endeavors rather to preserve them in freedom than reduce them to slavery. So that it is more advantageous for those who are insignificant in property and capacity to be supported by the care of one excellent and eminently powerful man. The nobles here present themselves, who profess

that they can do all this in much better style; for they say that there is much more wisdom in many than in one, and at least as much faith and equity. And, last of all, come the people, who cry with a loud voice, that they will render obedience neither to the one nor to the few; that even to brute beasts nothing is so dear as liberty; and that all men who serve either kings or nobles are deprived ot if. Thus, the kings attract us by affection, the nobles by talent, the people by liberty; and in the comparison it is hard to choose the best.

Lælius.—I think so, too, but yet it is impossible to dispatch the other branches of the question, if you leave this primary point undetermined.

XXXVI. *Scipio.*—We must, then, I suppose, imitate Aratus, who, when he prepared himself to treat of great things, thought himself in duty bound to begin with Jupiter.

Lælius.—Wherefore Jupiter? and what is there in this discussion which resembles that poem?

Scipio.—Why, it serves to teach us that we cannot better commence our investigations than by invoking him, whom, with one voice, both learned and unlearned extol as the universal king of all gods and men.

How so? said Lælius.

Do you, then asked Scipio, believe in nothing which is not before your eyes? whether these ideas have been established by the chiefs of states for the benefit of society, that there might be believed to exist one Universal Monarch in heaven, at whose nod (as Homer expresses it) all Olympus trembles, and that he might be accounted both king and father of all creatures; for there is great authority, and there are many witnesses, if you choose to call all many, who attest that all nations have unanimously recognized, by the decrees of their chiefs, that nothing is better than a king, since they think that all the gods are governed by the divine power of one sovereign; or if we suspect that this opinion rests on the error of the ignorant, and should be classed among the fables, let us listen to those universal testimonies of erudite men, who have, as it were, seen with their eyes those things to the knowledge of which we can hardly attain by report.

What men do you mean? said Lælius.

Those, replied Scipio, who, by the investigation of nature, have arrived at the opinion that the whole universe [is animated] by a single Mind. (Text missing.)

XXXVII. But if you please, my Lælius, I will bring forward evi-

dences, which are neither too ancient, nor in any respect barbarious.

Those, said Lælius, are what I want.

Scipio.—You are aware, that it is now not four centuries since this city of ours has been without kings.

Lælius.—You are correct, it is less than four centuries.

Scipio.—Well, then, what are four centuries in the age of a state or city; is it a long time?

Lælius.—It hardly amounts to the age of maturity.

Scipio.—You say truly, and yet not four centuries have elapsed since there was a king in Rome.

Lælius.—And he was a proud king.

Scipio.—But who was his predecessor?

Lælius.—He was an admirably just one; and, indeed, we must bestow the same praise on all his predecessors, as far back as Romulus, who reigned about six centuries ago.

Scipio.—Even he, then, is not very ancient.

Lælius.—No, he reigned when Greece was already becoming old.

Scipio.—Agreed. Was Romulus, then, think you, king of a barbarous people?

Lælius.—Why, as to that, if we are to follow the example of the Greeks, who say that all people are either Greeks or barbarians, I am afraid that we must confess that he was a king of barbarians; but if this name belong rather to manners than to languages, then I believe the Greeks were just as barbarous as the Romans.

Then Scipio said—But with respect to the present question, we do not so much need to inquire into the nation as into the disposition. For if intelligent men, at a period so little remote, desired the governing of kings, you will confess that I am producing authorities that are neither antiquated, rude, nor insignificant.

XXXVIII. Then Lælius said—I see, Scipio, that you are very sufficiently provided with authorities; but with me, as with every fair judge, authorities are worth less than arguments.

Scipio replied—Then, Lælius, you shall yourself make use of an argument derived from your own senses.

Lælius.—What senses do you mean?

Scipio.—The feelings which you experience when at any time you happen to feel angry at any one.

Lælius.—That happens rather oftener than I could wish.

Scipio.—Well, then, when you are angry, do you permit your anger to triumph over your judgment?

No, by Hercules! said Lælius, I imitate the famous Archytas of Tarentum, who, when he came to his villa, and found all its arrangements were contrary to his orders, said to his steward—"Ah! you unlucky scoundrel, I would flog you to death, if it were not that I am in a rage with you."

Capital, said Scipio. Archytas, then, regarded unreasonable anger as a kind of sedition and rebellion of nature, which he sought to appease by reflection. And so, if we examine avarice, the ambition of power or or glory, or the lusts of concupiscence and licentiousness, we shall find a certain conscience in the mind of man, which, like a king, sways by the force of counsel all the inferior faculties and propensities; and this, in truth, is the noblest portion of our nature; for when conscience reigns, it allows no resting place to lust, violence, or temerity.

Lælius.—You have spoken the truth.

Scipio.—Well, then, does a mind thus governed and regulated meet your approbation?

Lælius.—More than anything on earth.

Scipio.—Then you would not approve that the evil passions, which are innumerable, should expel conscience, and that lusts and animal propensities should assume an ascendancy over us?

Lælius.—For my part, I can conceive nothing more wretched than a mind thus degraded, or a man animated by a soul so licentious.

Scipio.—You desire, then, that all the facilities of the mind should submit to a ruling power, and that conscience should reign over them all?

Lælius.—Certainly, that is my wish.

Scipio.—How, then, can you doubt what opinion to form on the subject of the commonwealth? in which, if the state is thrown into many hands, it is very plain that there will be no presiding authority; for if power be not united, it soon comes to nothing.

XXXIX. Then Lælius asked—But what difference is there, I should like to know, between the one and the many, if justice exists equally in many?

And Scipio said—Since I see, my Lælius, that the authorities I have adduced have no great influence in you, I must continue to employ yourself as my witness in proof of what I am saying.

In what way, said Lælius, are you going to make me again support your argument?

Scipio.—Why thus. I recollect when we were lately at Formiæ,

that you told your servants repeatedly to obey the orders of not more than one master only.

Lælius.—To be sure, those of my steward.

Scipio.—What do you at home? do you commit your affairs to the hands of many persons?

Lælius.—No, I trust them to myself alone.

Scipio.—Well, in your whole establishment, is there any other master but yourself?

Lælius.—Not one.

Scipio.—Then I think you must grant me that as respects the state, the government of single individuals, provided they are just, is superior to any other.

Lælius.—You have conducted me to this conclusion, and I entertain very nearly that opinion.

XL. And Scipio said—You would still further agree with me, my Lælius, if, omitting the common comparisons, that one pilot is better fitted to steer a ship, and a physician to treat an invalid, provided they be competent men in their respective professions, than many could be, I should come at once to more illustrious examples.

Lælius.—What examples do you mean?

Scipio.—Do you observe that it was the cruelty and pride of one single Tarquin only, that made the title of king unpopular among the Romans?

Lælius.—Yes, I acknowledge that.

Scipio.—You are also aware of this fact, on which I think I shall debate in the course of the coming discussion, that after the expulsion of King Tarquin, the people was transported by a wonderful excess of liberty. Then, innocent men were driven into banishment; then the estates of many individuals were pillaged, consulships were made annual, public authorities were overawed by mobs, popular appeals took place in all cases imaginable; then secessions of the lower orders ensued; and lastly, those proceedings which tended to place all powers in the hands of the populace.

Lælius.—I must confess this is all too true.

All these things now, said Scipio, happened during periods of peace and tranquility, for licence is wont to prevail when there is too little to fear, as in a calm voyage, or a trifling disease. But as we observe the voyager and invalid implore the aid of some competent director, as soon as the sea grows stormy and the disease alarming! so our nation in peace and security commands, threatens, resists, appeals from, and insults its

magistrates, but in war obeys them as strictly as kings; for public safety is after all rather more valuable than popular licence. And in the most serious wars, our countrymen have even chosen the entire command to be deposited in the hands of some single chief, without a colleague; the very name of which magistrate indicates the absolute character of his power. For though he is evidently called dictator because he is appointed (*dictur*), yet do we still observe him, my Lælius, in our sacred books entitled (Magister Populi), the master of the people.

This is certainly the case, said Lælius.

Our ancestors, therefore, said Scipio, acted wisely. (Text missing.)—On the Republic, Bk. I.

TRANSLATION OF C. D. YONGE.

SCIPIO'S DREAM

When I had arrived in Africa, where I was, as you are aware, military tribune of the fourth legion under the consul Manilius, there was nothing of which I was more earnestly desirous than to see King Masinissa, who, for very just reasons, had been always the especial friend of our family. When I was introduced to him, the old man embraced me, shed tears, and then, looking up to heaven, exclaimed—I thank thee, O supreme Sun, and ye also, ye other celestial beings, that before I departed from this life I behold in my kingdom, and in my palace, Publius Cornelius Scipio, by whose mere name I seem to be reanimated; so complete and indelibly is the recollection of that best and most invincible of men, Africanus, imprinted in my mind.

After this, I inquired of him concerning the affairs of his kingdom. He, on the other hand, questioned me about the condition of our commonwealth, and in this mutual interchange of conversation we passed the whole of that day.

X. In the evening, we were entertained in a manner worthy the magnificence of a king, and carried on our discourse for a considerable part of the night. And during all this time the old man spoke of nothing but Africanus, all whose actions, and even remarkable sayings, he remembered distinctly. At last, when we retired to bed, I fell in a more profound sleep than usual, both because I was fatigued with my journey,

and because I had sat up the greatest part of the night.

Here I had the following dream, occasioned, as I verily believe, by our preceding conversation—for it frequently happens that the thoughts and discourses which have enployed us in the day time, produce in our sleep an effect somewhat similar to that which Ennius writes happened to him about Homer, of whom, in his waking hours, he used frequently to think and speak.

Africanus, I thought, appeared to me in that shape, with which I was better acquainted from his picture, than from any personal knowledge of him. When I perceived it was he, I confess I trembled with consternation; but he addressed me, saying, Take courage, my Scipio, be not afraid, and carefully remember what I am saying to you.

XI. Do you see that city Carthage, which, though brought under the Roman yoke by me, is now renewing former wars, and cannot live in peace? (and he pointed to Carthage from a lofty spot, full of stars, and brilliant and glittering;) to attack which city you are this day arrived in a station not much superior to that of a private soldier. Before two years, however, are elapsed, you shall be consul, and complete its overthrow; and you shall obtain, by your own merit, the surname of Africanus, which, as yet, belongs to you no otherwise than as derived from me. And when you have destroyed Carthage, and received the honor of a triumph, and been made censor, and, in quality of ambassador, visited Egypt, Syria, Asia, and Greece, you shall be elected a second time consul in your absence, and by utterly destroying Numantia, put an end to a most dangerous war.

But when you have entered the Capitol in your triumphal car, you shall find the Roman commonwealth all in a ferment, through the intrigues of my grandson Tiberius Gracchus.

XII. It is on this occasion, my dear Africanus, that you show your country the greatness of your understanding, capacity and prudence. But I see that the destiny, however, of that time is, as it were, uncertain; for when your age shall have accomplished seven times eight revolutions of the sun, and your fatal hours shall be marked out by the natural product of these two numbers, each of which is esteemed a perfect one, but for different reasons,—then shall the whole city have recourse to you alone, and place its hopes in your auspicious name. On you the senate, all good citizens, the allies, the people of Latium, shall cast their eyes; on you the preservation of the state shall entirely depend. In a word, *if you escape the impius machinations of your relatives*, you will,

in the quality of dictator, establish order and tranquility in the commonwealth.

When on this Lælius made an exclamation, and the rest of the company groaned loudly, Scipio, with a gentle smile, said—I entreat you, do not wake me out of my dream, but have patience, and hear the rest.

XIII. Now, in order to encourage you, my dear Africanus, continued the shade of my ancestor, to defend the state with the greater cheerfulness, be assured that for all those who have in any way conduced to the preservation, defence, and enlargement of their native country, there is a certain place in heaven, where they shall enjoy an eternity of happiness. For nothing on earth is more agreeable to God, the Supreme Governor of the universe, than the assemblies and societies of men united together by laws, which are called States. It is from heaven their rulers and preservers came, and thither they return.

XIV. Though at these words I was extremely troubled, not so much at the fear of death, as at the perfidy of my own relations; yet I recollected myself enough to inquire, whether he himself, my father Paulus, and others whom we look upon as dead, were really living.

Yes, truly, replied he, they all enjoy life who have escaped from the chains of the body as from a prison. But as to what you call life on earth, that is no more than one form of death. But see, here comes your father Paulus towards you! And as soon as I observed him, my eyes burst out into a flood of tears; but he took me in his arms, and bade me not weep.

XV. When my first transports subsided, and I regained the liberty of speech, I addressed my father thus:—Thou best and most venerable of parents, since this, as I am informed by Africanus, is the only substantial life, why do I linger on earth, and not rather hasten to come hither where you are?

That, replied he, is impossible; unless that God, whose temple is all that vast expanse you behold, shall free you from the fetters of the body, you can have no admission into this place. Mankind have received their being on this very condition, that they should labor for the preservation of that globe, which is situated, as you see, in the midst of this temple, and is called earth.

Men are likewise endowed with a soul, which is a portion of the eternal fires, which you call stars and constellations; and which, being round, spherical bodies, animated by divine intelligence, perform their cycles and revolutions with amazing rapidity. It is your duty, therefore, my Publius, and that of all who have any veneration for the gods,

to preserve this wonderful union of soul and body; nor without the express command of him who gave you a soul, should the least thought be entertained of quitting human life, lest you seem to desert the post assigned to you by God himself.

But rather follow the example of your grandfather here, and of me, your father, in paying a strict regard to justice and piety; which is due in a great degree to parents and relations, but most of all to our country. Such a life as this is the true way to heaven, and to the company of those, who, after having lived on earth and escaped from the body, inhabit the place which you now behold.

XVI. This was the shining circle, or zone, whose remarkable brightness distinguishes it among the constellations, and which, after the Greeks, you call the Milky Way.

From thence, as I took a view of the universe, everything appeared beautiful and admirable; for there, those stars are to be seen that are never visible from our globe, and everything appears of such magnitude as we could not have imagined. The least of all the stars, was that removed furthest from heaven, and situated next to earth; I mean our moon, which shines with a borrowed light. Now the globes of the stars far surpass the magnitude of our earth, which at that distance appeared so exceedingly small, that I could not but be sensibly affected on seeing our whole empire no larger than if we touched the earth with a point.

XVII. And as long as I continued to observe the earth with great attention, How long, I pray you, said Africanus, will your mind be fixed on that object; why don't you rather take a view of the magnificent temples among which you have arrived? The universe is composed of nine circles, or rather spheres, one of which is the heavenly one, and is exterior to all the rest, which it embraces; being itself the Supreme God, and bounding and containing the whole. In it are fixed those stars which revolve with never varying courses. Below this are seven other spheres, which revolve in a contrary direction to that of the heavens. One of these is occupied by the globe which on earth they call Saturn. Next to that is the star of Jupiter, so benign and salutary to mankind. The third in order, is that fiery and terrible planet called Mars. Below this again, almost in the middle region, is the Sun,—the leader, governor, the prince of the other luminaries; the soul of the world, which it regulates and illumines, being of such vast size that it pervades and gives light to all places. Then follow Venus and Mercury, which attend, as it were, on the Sun. Lastly, the Moon, which shines only in

the reflected beams of the Sun, moves in the lowest sphere of all. Below this, if we except that gift of the gods, the soul, which has been given by the liberality of the gods to the human race, every thing is mortal, and tends to dissolution, but above the moon all is eternal. For the Earth, which is in the ninth globe, and occupies the center, is immoveable, and being the lowest, all others gravitate towards it.

XVIII. When I had recovered myself from the astonishment occasioned by such a wonderful prospect, I thus addressed Africanus—Pray what is this sound that strikes my ears in so loud and agreeable a manner? To which he replied—it is that which is called the *music of the spheres,* being produced by their motion and impulse; and being formed by unequal intervals, but such as are divided according to the justest proportion, it produces, by duly tempering acute with grave sounds, various concerts of harmony. For it is impossible that motions so great should be performed without any noise; and it is agreeable to nature that the extremes on one side should produce sharp, and on the other flat sounds. For which reason the sphere of the fixed stars, being the highest, and being carried with a more rapid velocity, moves with a shrill and acute sound; whereas that of the moon, being the lowest, moves with a very flat one. As to the Earth, which makes the ninth sphere, it remains immoveably fixed in the middle or lowest part of the universe. But those eight revolving circles, in which both Mercury and Venus are moved with the same celerity, give out sounds that are divided by seven distinct intervals, which is generally the regulating number of all things.

This celestial harmony has been imitated by learned musicians, both on stringed instruments and with the voice, whereby they have opened to themselves a way to return to the celestial regions, as have likewise many others who have employed their sublime genius while on earth in cultivating the divine sciences.

By the amazing noise of this sound, the ears of mankind have been in some degree deafened, and indeed, hearing is the dullest of all the human senses. Thus, the people who dwell near the cataracts of the Nile, which are called Catadupa, are, by the excessive roar which that river makes in precipitating itself from those lofty mountains, entirely deprived of the sense of hearing. And so inconceiveably great is this sound which is produced by the rapid motion of the whole universe, that the human ear is no more capable of receiving it, than the eye is able to look steadfastly and directly on the sun, whose beams easily dazzle the strongest sight.

While I was busied in admiring the scene of wonders, I could not help casting my eyes every now and then on the earth.

XIX. On which Africanus said—I perceive that you are still employed in contemplating the seat and residence of mankind. But if it appears to you so small, as in fact it really is, despise its vanities, and fix your attention for ever on these heavenly objects. Is it possible that you should attain any human applause or glory that is worth the contending for? The earth, you see, is peopled but in a very few places, and those too of small extent; and they appear like so many little spots of green scattered through vast uncultivated deserts. And those who inhabit the earth are not only so remote from each other as to be cut off from all mutual correspondence, but their situation being in oblique or contrary parts of the globe, or perhaps in those diametrically opposite to yours, all expectation of universal fame must fall to the ground.

XX. You may likewise observe that the same globe of the earth is girt and surrounded with certain zones, whereof those two that are most remote from each other, and lie under the opposite poles of heaven, are congealed with frost; but that one in the middle, which is far the largest, is scorched with the intense heat of the sun. The other two are habitable, one towards the south—the inhabitants of which are your Antipodes, with whom you have no connexion,—the other, towards the north, is that which you inhabit, whereof a very small part, as you may see, falls to your share. For the whole extent of what you see, is as it were but a little island, narrow at both ends and wide in the middle, which is surrounded by the sea which on earth you call the great Atlantic ocean, and which, notwithstanding this magnificent name, you see is very insignificant. And even in these cultivated and well-known countries, has yours, or any of our names, ever passed the heights of the Caucasus, or the currents of the Ganges? In what other parts to the north or the south, or where the sun rises and sets, will your names ever be heard? And if we leave these out of the question, how small a space is there left for your glory to spread itself abroad? and how long will it remain in the memory of those whose minds are now full of it?

XXI. Besides all this, if the progeny of any future generation should wish to transmit to their posterity the praises of any one of us which they have heard from their forefathers, yet the deluges and combustions of the earth which must necessarily happen at their destined periods will prevent our obtaining, not only an eternal, but even a durable glory. And after all, what does it signify, whether those who shall hereafter be born talk of you, when those who have lived before you,

whose number was perhaps not less, and whose merit certainly greater, were not so much as acquainted with your name?

XXII. Especially since not one of those who shall hear of us is able to retain in his memory the transactions of a single year. The bulk of mankind, indeed, measure their year by the return of the sun, which is only one star. But, when all the stars shall have returned to the place whence they set out, and after long periods shall again exhibit the same aspect of the whole heavens, that is what ought properly to be called the revolution of a year, though I scarcely dare attempt to enumerate the vast multitude of ages contained in it. For as the sun in old time was eclipsed, and seemed to be extinguished, at the time when the soul of Romulus penetrated into these eternal mansions, so, when all the constellations and stars shall revert to their primary position, and the sun shall at the same point and time be again eclipsed, then you may consider that the grand year is completed. Be assured, however, that the twentieth part of it is not yet elapsed.

XXIII. Wherefore, if you have no hopes of returning to this place, where great and good men enjoy all that their souls can wish for, of what value, pray, is all that human glory, which can hardly endure for a small portion of one year?

If, then, you wish to elevate your views to the contemplation of this eternal seat of splendor, you will not be satisfied with the praises of your fellow-mortals, nor with any human rewards that your exploits can obtain; but Virtue herself must point out to you the true and only object worthy of your pursuit. Leave to others to speak of you as they may, for speak they will. Their discourses will be confined to the narrow limits of the countries you see, nor will their duration be very extensive, for they will perish like those who utter them, and will be no more remembered by their posterity."

XXIV. When he had ceased to speak in this manner, I said—Oh, Africanus, if indeed the door of heaven is open to those who have deserved well of their country, although, indeed, from my childhood, I have always followed yours and my father's steps, and have not neglected to imitate your glory, still I will from henceforth strive to follow them more closely.

Follow them, then, said he, and consider your body only, not yourself, as mortal. For it is not your outward form which constitutes your being, but your mind; not that substance which is palpable to the senses, but your spiritual nature. *Know, then, that you are a god*—for a god it must be which flourishes, and feels, and recollects, and foresees, and

governs, regulates and moves the body over which it is set, as the Supreme Ruler does the world which is subject to him. For as that Eternal Being moves whatever is mortal in this world, so the immortal mind of man moves the frail body with which it is connected.

XXV. For whatever is always moving must be eternal, but that which derives its motion from a power which is foreign to itself, when that motion ceases must itself lose its animation.

That alone, then, which moves itself can never cease to be moved, because it can never desert itself. Moreover, it must be the source, and origin, and principle of motion in all the rest. There can be nothing prior to a principle, for all things must originate from it, and it cannot itself derive its existence from any other source, for if it did it would no longer be a principle. And if it had no beginning it can have no end, for a beginning that is put an end to will neither be renewed by any other cause, nor will it produce anything else of itself. All things, therefore, must originate *from one source.* Thus it follows, that motion must have its source in something which is moved by itself, and which can neither have a beginning nor an end. Otherwise all the heavens and all nature must perish, for it is impossible that they can of themselves acquire any power of producing motion in themselves.

XXVI. As, therefore, it is plain that what is moved by itself must be eternal, who will deny that this is the general condition and nature of minds? For, as everything is inanimate which is moved by an impulse exterior to itself, so what is animated is moved by an interior impulse of its own; for this is the peculiar nature and power of mind. And if that alone has the power of self-motion, it can neither have had a beginning, nor can it have an end.

Do you, therefore, exercise this mind of yours in the best pursuits. And the best pursuits are those which consist in promoting the good of your country. Such employments will speed the flight of your mind to this its proper abode; and its flight will be still more rapid, if, even while it is enclosed in the body, it will look abroad, and disengage itself as much as possible from its bodily dwelling, by the contemplation of things which are external to itself.

This it should do to the utmost of its power. For the minds of those who have given themselves up to the pleasures of the body, paving as it were a servile obedience to their lustful impulses, have violated the laws of God and man; and therefore, when they are separated from their bodies, flutter continually round the earth on which they lived,

and are not allowed to return to this celestial region, till they have been purified by the revolution of many ages.

Thus saying he vanished, and I awoke from my dream.—On the Republic, Bk. VI.

TRANSLATION OF C. D. YONGE.

THE CONTEMPT OF DEATH

MARCUS.—THE first thing, then, is to inquire what death, which seems to be so well understood, really is; for some imagine death to be the departure of the soul from the body; others think that there is no such departure, but that soul and body perish together, and that the soul is extinguished with the body. Of those who think that the soul does depart from the body, some believe in its immediate dissolution; others fancy that it continues to exist for a time; and others believe that it lasts forever. There is great dispute even what the soul is, where it is, and whence it is derived: with some, the heart itself (cor) seems to be the soul, hence the expressions, *exordes, vecordes, concordes;* and that prudent Nasica, who was twice consul, was called Corculus, *i. e.* wise-heart; and Ælius Sextus is described as *Egregie* cordatus *homo, catus Æliu' Sextus*—that great *wise-hearted* man, sage Ælius. Empedocles imagines the blood, which is suffused over the heart, to be the soul; to others, a certain part of the brain seems to be the throne of the soul; others neither allow the heart itself, nor any portion of the brain, to be the soul; but think either that the heart is the seat and abode of the soul; or else that the brain is so. Some would have the soul, or spirit, to be the *anima,* as our schools generally agree; and indeed the name signifies as much, for we use the expressions *animam agere,* to live; *animam efflare,* to expire; *animosi,* men of spirit; *bene animati,* men of right feeling; *exinimi sententia,* according to our real opinion—and the very word *animus* is derived from *anima.* Again, the soul seems to Zeno the Stoic to be fire.

X. But what I have said as to the heart, the blood, the brain, air, or fire being the soul, are common opinions: the others are only entertained by individuals; and, indeed, there were many amongst the ancients who held singular opinions on this subject, of whom the latest was Aristoxenus, a man who was both a musician and a philosopher; he

maintained a certain straining of the body, like what is called harmony in music, to be the soul; and believed that, from the figure and nature of the whole body, various motions are excited, as sounds are from an instrument. He adhered steadily to his system, and yet he said something, the nature of which, whatever it was, had been detailed and explained a great while before Plato. Xenocrates denied that the soul had any figure, or anything like a body; but said it was a number, the power of which, as Pythagoras had fancied, some ages before, was the greatest in nature: his master, Plato, imagined a three-fold soul; a dominant portion of which, that is to say, reason, he had lodged in the head, as in a tower; and the two other parts, namely, anger and desire, he made subservient to this one, and allotted them distinct abodes, placing anger in the breast, and desire under the præcordia. But Dicæarchus, in that discourse of some learned disputants, held at Corinth, which he details to us in three books; in the first book introduces many speakers; and in the other two he introduces a certain Pherecrates, an old man of Phthia, who, as he said, was descended from Deucalion; asserting, that there is in fact no such thing at all as a soul; but that it is a name, without a meaning; and that it is idle to use the expression, "animals," or "animated beings;" that neither men nor beasts have minds or souls; but that all that power, by which we act or perceive, is equally infused into every living creature, and is inseparable from the body, for if it were not, it would be nothing; nor is there anything whatever really existing except body, which is a single and simple thing, so fashioned, as to live and have sensations in consequence of the regulations of nature. Aristotle, a man superior to all others, both in genius and industry (I always except Plato), after having embraced these four known sorts of principles, from which all things deduce their origin, imagines that there is a certain fifth nature, from whence comes the soul; for to think, to foresee, to learn, to teach, to invent anything, and many other attributes of the same kind, such as, to remember, to love, to hate, to desire, to fear, to be pleased or displeased; these, and others like them, exist, he thinks, in none of those first four kinds: on such account he adds a fifth kind, which has no name, and so by a new name he calls the soul *endelechia,* as if it were a certain continued and perpetual motion.

XI. If I have not forgotten anything unintentionally, these are the principal opinions concerning the soul. I have omitted Democritus, a very great man, indeed, but one who deduces the soul from the fortuitous concourse of small, light, and round substances; for, if you believe

men of his school, there is nothing which a crowd of atoms can not effect. Which of these opinions is true, some god must determine. It is an important question for us, which has the most appearance of truth. Shall we, then, prefer determining between them, or shall we return to our subject?

A. I wish both, if possible; but it is difficult to mix them; therefore, if without a discussion of them we can get rid of the fears of death, let us proceed to do so; but if this is not to be done without explaining the question about souls, let us have that now, and the other at another time.

M. I take that plan to be the best, which I perceive you are inclined to; for reason will demonstrate that, whichever of the opinions which I have stated is true, it must follow, then, that death can not be an evil; or that it must rather be something desirable, for if either the heart, or the blood, or the brain, is the soul, then certainly the soul, being corporeal, must perish with the rest of the body; if it is air, it will perhaps be dissolved; if it is fire, it will be extinguished; if it is Aristoxenus's harmony, it will be put out of tune. What shall I say of Dicæarchus, who denies that there is any soul? In all these opinions, there is nothing to affect any one after death; for all feeling is lost with life and where there is no sensation, nothing can interfere to affect us. The opinions of others do, indeed, bring us hope; if it is any pleasure to you to think that souls, after they leave the body, may go to heaven as to a permanent home.

A. I have great pleasure in that thought, and it is what I most desire; and even if it should not be so, I should still be very willing to believe it.

M. What occasion have you, then, for my assistance? am I superior to Plato in eloquence? Turn over carefully his book that treats of the soul, you will have there all that you can want.

A. I have, indeed, done that, and often; but, I know not how it comes to pass, I agree with it whilst I am reading it, but when I have laid down the book, and begin to reflect with myself on the immortality of the soul, all that agreement vanishes.

M. How comes that? do you admit this, that souls either exist after death, or else that they also perish at the moment of death?

A. I agree to that. And if they do exist, I admit that they are happy; but if they perish, I can not suppose them to be unhappy, because, in fact, they have no existence at all. You drove me to that confession but just now.

M. How, then, can you, or why will you, assert that you think that death is an evil, when it either makes us happy, in the case of the soul continuing to exist, or, at all events, not unhappy, in the case of our becoming destitute of all sensation.

XII. *A.* Explain, therefore, if it is not troublesome to you, first, if you can, that souls do exist after death; secondly, should you fail in that, (and it is a very difficult thing to establish,) that death is free from all evil; for I am not without my fears that this itself is an evil; I do not mean the immediate deprivation of sense, but the fact that we shall hereafter suffer deprivation.

M. I have the best authority in support of the opinion you desire to have established, which ought, and generally has, great weight in all cases. And first, I have all antiquity on that side, which the more near it is to its origin and divine descent, the more clearly, perhaps, on that account did it discern the truth in these matters. This very doctrine, then, was adopted by all those ancients, whom Ennius calls in the Sabine tongue, Casci, namely, that in death there was a sensation, and that, when men departed this life, they were not so entirely destroyed as to perish absolutely. And this may appear from many other circumstances, and especially from the pontifical rites and funeral obsequies, which men of the greatest genius would not have been so solicitous about, and would not have guarded from any injury by such severe laws, but from a firm persuasion that death was not so entirely a destruction as wholly to abolish and destroy everything, but rather a kind of transmigration, as it were, and change of life, which was, in the case of illustrious men and women, usually a guide to heaven, while in that of others, it was still confined to the earth, but in such a manner as still to exist. From this, and the sentiments of the Romans,

In heaven Romulus with gods now lives;

as Ennius said, agreeing with the common belief; hence, too, Hercules is considered so great and propitious a god among the Greeks, and from them he was introduced among us, and his worship has extended even to the very ocean itself. This is how it was that Bacchus was deified, the offspring of Semele; and from the same illustrious fane we receive Castor and Pollux as gods, who are reported not only to have helped the Romans to victory in their battles, but to have been the messengers of their success. What shall we say of Ino, the daughter of Cadmus? is she not called Leucothea by the Greeks, and Matuta by us? Nay more;

is not the whole of heaven (not to dwell on particulars) almost filled with the offspring of men?

Should I attempt to search into antiquity, and produce from thence what the Greek writers have asserted, it would appear that even those who are called their principal gods, were taken from among men up into heaven.

XIII. Examine the sepulchres of those which are shown in Greece; recollect, for you have been initiated, what lessons are taught in the mysteries; then will you perceive how extensive this doctrine is. But they who were not acquainted with natural philosophy, (for it did not begin to be in vogue till many years later,) had not higher belief than what natural reason could give them; they were not acquainted with the principles and causes of things; they were often induced by certain visions, and those generally in the night, to think that those men, who had departed from this life, were still alive. And this may further be brought as an irrefragable argument for us to believe that there are gods,—that there never was any nation so barbarous, nor any people in the world so savage, as to be without some notion of gods: many have wrong notions of the gods, for that is the nature and ordinary consequence of bad customs, yet all allow that there is a certain divine nature and energy. Nor does this proceed from the conversation of men, or the agreement of philosophers; it is not an opinion established by institutions or by laws; but, no doubt, in every case the consent of all nations is to be looked on as a law of nature. Who is there, then, that does not lament the loss of his friends, principally from imagining them deprived of the conveniences of life? Take away this opinion, and you remove with it all grief; for no one is afflicted merely on account of a loss sustained by himself. Perhaps we may feel sorry, and grieve a little; but that bitter lamentation, and those mournful tears, have their origin in our apprehensions that he whom we loved is deprived of all the advantages of life, and is sensible of his loss. And we are led to this opinion by nature, without any arguments or any instruction.

XIV. But the greatest proof of all is, that nature herself gives a silent judgment in favor of the immortality of the soul, inasmuch as all are anxious, and that to a great degree, about the things which concern futurity;—

One plants that future ages shall enjoy,

as Statius said in his Synephebi. What is his object in doing so, except that he is interested in posterity? Shall the industrious hubandman,

then, plant trees the fruit of which he shall never see? and shall not the great man found laws, institutions, and a republic? What does the procreation of children imply—and our care to continue our names—and our adoptions—and our scrupulous exactness in drawing up wills—and the inscriptions on monuments, and panegyrics, but that our thoughts run on futurity? There is no doubt but a judgment may be formed of nature in general, from looking at each nature in its most perfect specimens; and what is a more perfect specimen of a man, than those who look on themselves as born for the assistance, the protection, and the preservation of others? Hercules has gone to heaven; he never would have gone thither had he not, whilst amongst men, made that road for himself. These things are of old date, and have, besides, the sanction of universal religion.

XV. What will you say? what do you imagine that so many and such great men of our republic, who have sacrificed their lives for its good, expected? Do you believe that they thought that their names should not continue beyond their lives? None ever encountered death for their country, but under a firm persuasion of immortality! Themistocles might have lived at his ease; so might Epaminondas; and, not to look abroad and amongst the ancients for instances, so might I myself. But, somehow or other, there clings to our minds a certain presage of future ages; and this both exists most firmly and appears most clearly, in men of the loftiest genius and greatest souls. Take away this, and who would be so mad as to spend his life among toils and dangers? I speak of those in power, What are the poet's views but to be ennobled after death? What else is the object of these lines—

> Behold old Ennius here, who erst
> Thy fathers' great exploits rehearsed?

He is challenging the reward of glory from those men whose ancestors he himself had ennobled by his poetry. And in the same spirit he says in another passage—

> Let none with tears my funeral grace, for I
> Claim from my works an immortality.

Why do I mention poets? the very mechanics are desirous of fame after death. Why did Phidias include a likeness of himself in the shield of Minerva, when he was not allowed to inscribe his name on it? What do our philosophers think on the subject? do they not put their names to those very books which they write on the contempt of glory If, then,

universal consent is the voice of nature, and if it is the general opinion everywhere, that those who have quitted this life are still interested in something; we also must subscribe to that opinion. And if we think that men of the greatest abilities and virtue see most clearly into the power of nature, because they themselves are her most perfect work; it is very probable that, as every great man is especially anxious to benefit posterity, there is something of which he himself will be sensible after death.

XVI. But as we are led by nature to think there are gods, and as we discover, by reason, of what description they are, so, by the consent of all nations, we are induced to believe that our souls survive; but where their habitation is, and of what character they eventually are, must be learned from reason. The want of any certain reason on which to argue has given rise to the idea of shades below, and to those fears, which you seem, not without reason, to despise: for as our bodies fall to the ground, and are covered with earth (*humus*), from whence we derive the expression to be interred (*humari*), that has occasioned men to imagine that the dead continue, during the remainder of their existence, under ground; which opinion has drawn after it many errors, which the poets have increased; for the theater, being frequented by a large crowd, among which are women and children, is wont to be greatly affected on hearing such pompous verses as these—

> Lo! here I am, who scarce could gain this place,
> Through stony mountains and a dreary waste;
> Through cliffs, whose sharpen'd stones tremendous hung,
> Where dreadful darkness spread itself around:

and the error prevailed so much, though, indeed, at present it seems to me to be removed, that although men knew that the bodies of the dead had been burned, yet they conceived such things to be done in the infernal regions as could not be executed or imagined without a body; for they could not conceive how disembodied souls could exist; and, therefore, they looked out for some shape or figure. This was surely the origin of all that account of the dead in Homer. This was the idea that caused my friend Appius to frame his Necromancy; and this is how there got about that idea of the lake of Avernus, in my neighborhood.—

> From whence the souls of undistinguished shape,
> Clad in thick shade, rush from the open gate
> Of Acheron, vain phantoms of the dead.

And they must needs have these appearances speak, which is not possible without a tongue, and a palate, and jaws, and without the help of lungs and sides, and without some shape or figure; for they could see nothing by their mind alone, they referred all to their eyes. To withdraw the mind from sensual objects, and abstract our thoughts from what we are accustomed to, is an attribute of great genius: I am persuaded, indeed, that there were many such men in former ages: but Pherecydes the Syrian is the first on record who said that the souls of men were immortal; and he was a philosopher of great antiquity in the reign of my namesake Tullius. His disciple Pythagoras greatly confirmed this opinion, who came into Italy in the reign of Tarquin the Proud; and all that country which is call Great Greece was occupied by his school, and he himself was held in high honor, and had the greatest authority; and the Pythagorean sect was for many ages after in such great credit, that all learning was believed to be confined to that name.

XVII. But I return to the ancients. They scarcely ever gave any reason for their opinion but what could be explained by numbers or definitions. It is reported of Plato, that he came into Italy to make himself acquainted with the Pythagoreans; and that when there, amongst others, he made an acquaintance with Archytas and Timæus, and learned from them all the tenets of the Pythagoreans; and that he not only was of the same opinion with Pythagoras concerning the immortality of the soul, but that he also brought reasons in support of it; which, if you have nothing to say again it, I will pass over, and say no more at present about all this hope of immortality.

A. What, will you leave me when you have raised my expectations so high? I had rather, so help me Hercules! be mistaken with Plato, whom I know how much you esteem, and whom I admire myself from what you say of him, than be in the right with those others.

M. I commend you; for, indeed, I could myself willingly be mistaken in his company. Do we, then, doubt as we do in other cases, (though I think there is very little room for doubt in this case, for the mathematicians prove the facts to us,) that the earth is placed in the midst of the world, being as it were a sort of point, which they call a *kentron,* surrounded by the whole heavens; and that such is the nature of the four principles, which are the generating causes of all things, that they have equally divided amongst them the constituents of all bodies; moreover that earthy and humid bodies are carried at equal angles, by their own weight and ponderosity, into the earth and sea; that the other two parts consist one of fire and the other of air? As the two

former are carried by their gravity and weight into the middle region of the world; so these, on the other hand, ascend by right lines into the celestial regions; either because, owing to their intrinsic nature, they are always endeavoring to reach the highest place, or else because lighter bodies are natually repelled by heavier; and as this is notoriously the case, it must evidently follow, that souls, when once they have departed from the body, whether they are animal, (by which term I mean capable of breathing,) or of the nature of fire, must mount upwards: but if the soul is some number, as some people assert, speaking with more subtlety than clearness, or if it is that fifth nature, for which it would be more correct to say that we have not give a name to, than that we do not correctly understand it—still it is too pure and perfect, not to go to a great distance from the earth. Something of this sort, then, we must believe the soul to be, that we may not commit the folly of thinking that so active a principle lies immerged in the heart or brain; or as Empedocles would have it, in the blood.

XVIII. We will pass over Dicæarchus, with his contemporary and fellow-disciple Aristaxenus, both, indeed, men of learning. One of them seems never even to have been affected with grief, as he could not perceive that he had a soul; while the other is so pleased with his musical compositions, that he endeavors to show an analogy betwixt them and souls. Now, we may understand harmony to arise from the intervals of sounds, whose various compositions occasion many harmonies; but I do not see how a disposition of members, and the figure of a body without a soul, can occasion harmony; he had better, learned as he is, leave these speculations to his master, Aristotle, and follow his own trade, as a musician; good advice is given him in that Greek proverb,—

Apply your talents where you best are skill'd.

I will have nothing at all to do with that fortuitous concourse of individual light and round bodies, notwithstanding Democritus insists on their being warm, and having breath, that is to say, life. But this soul, which is compounded of either of the four principles from which we assert that all things are derived, is of inflamed air, as seems particularly to have been the opinion of Panætius, and must necessarily mount upwards; for air and fire have no tendency downwards, but always ascend; so should they be dissipated, that must be at some distance from the earth; but should they remain, and preserve their original state, it is clearer still that they must be carried heavenward; and this gross and

concrete air, which is nearest the earth, must be divided and broken by them; for the soul is warmer, or rather hotter than that air, which I just now called gross and concrete; and this may be made evident from this consideration,—that our bodies, being compounded of the earthy class of principles, grow warm by the heat of the soul.

XIX. We may add, that the soul can the more easily escape from this air, which I have often named, and break through it; because nothing is swifter than the soul; no swiftness is comparable to the swiftness of the soul; which, should it remain uncorrupt and without alteration, must necessarily be carried on with such velocity as to penetrate and divide all this atmosphere, where clouds, and rain, and winds are formed; which, in consequence of the exhalations from the earth, is moist and dark; but, when the soul has once got above this region, and falls in with, and recognizes a nature like its own, it then rests upon fires composed of a combination of thin air and a moderate solar heat, and does not aim at any higher flight. For then, after it has attained a lightness and heat resembling its own, it moves no more, but remains steady, being balanced, as it were, between two equal weights. That, then is its natural seat, where is has penetrated to something like itself; and where, wanting nothing further, it may be supported and maintained by the same aliment which nourishes and maintains the stars.

Now, as we are usually incited to all sorts of desires by the stimulus of the body, and the more so, as we endeavor to rival those who are in possession of what we long for, we shall certainly be happy when being rid of these desires and this rivalry: and, that which we do at present, when, dismissing all other cares, we curiously examine and look into anything, we shall then do with greater freedom; and we shall employ ourselves entirely in the contemplation and examination of things; because there is naturally in our minds a certain insatiable desire to know the truth; and the very region itself where we shall arrive, as it gives us a more intuitive and easy knowledge of celestial things, will raise our desires after knowledge. For it was this beauty of the heavens, as seen even here upon earth, which gave birth to that national and hereditary philosophy, (as Theophratus calls it,) which was thus excited to a desire of knowledge. But those persons will in a most especial degree enjoy this philosophy, who while they were only inhabitants of this world and enveloped in darkness, were still desirous of looking into these things with the eye of their mind.

XX. For, if those men now think that they have attained some-

thing who have seen the mouth of the Pontus, and those straits which were passed by the ship called Argo because,

> From Argos she did chosen men convey,
> Bound to fetch back the golden fleece, their prey;

or those who have seen the straits of the ocean,

> Where the swift waves divide the neighboring shores
> Of Europe, and of Africa.

What kind of sight do you imagine that will be, when the whole earth is laid open to our view? and that, too, not only in its position, form, and boundaries, nor those parts of it only which are habitable, but those also that lie uncultivated, through the extremities of heat and cold to which they are exposed; for not even now is it with our eyes that we view what we see, for the body itself has no senses; but (as the naturalists, aye, and even the physicians assure us, who have opened our bodies, and examined them), there are certain perforated channels from the seat of the soul to the eyes, ears, and nose; so that frequently, when either prevented by meditation, or the force of some bodily disorder, we neither hear nor see, though our eyes and ears are open, and in good condition; so that we may easily apprehend that it is the soul itself which sees and hears, and not those parts which are, as it were, but windows to the soul; by means of which, however, she can perceive nothing, unless she is on the spot, and exerts herself. How shall we account for the fact, that by the same power of thinking we comprehend the most different things; as color, taste, heat, smell, and sound? which the soul could never know by her five messengers, unless everything was referred to her, and she were the sole judge of all. And we shall certainly discover these things in a more clear and perfect degree when the soul is disengaged from the body, and has arrived at that goal to which nature leads her; for at present, notwithstanding nature has contrived, with the greatest skill, those channels which lead from the body to the soul, yet they are, in some way or other, stopped up with earthy and concrete bodies; but when we shall be nothing but soul, then nothing will interfere to prevent our seeing everything in its real substance, and in its true character.

XXI. It is true, I might expatiate, did the subject require it, on the many and various objects with which the soul will be entertained in those heavenly regions; when I reflect on which, I am apt to wonder at the boldness of some philosophers, who are so struck with admiration

at the knowledge of nature, as to thank, in an exulting manner, the first inventor and teacher of natural philosophy, and to reverence him as a god, for they declare that they have been delivered by his means from the greatest tyrants, a perpetual terror, and a fear that molested them by night and day. What is this dread—this fear? what old woman is there so weak as to fear these things, which you, forsooth, had you not been acquainted with natural philosophy, would stand in awe of?

> The hallow'd roofs of Acheron, the dread
> Of Orchus, the pale regions of the dead.

And does it become a philosospher to boast that he is not afraid of these things, and that he has discovered them to be false? And from this we may perceive how acute these men were by nature, who, if they had been left without any instruction would have believed in these things. But now they have certainly made a very fine acquisition in learning that when the day of their death arrives they will perish entirely; and, if that really is the case, for I say nothing either way, what is there agreeable or glorious in it? Not that I see any reason why the opinion of Pythagoras and Plato may not be true; but even although Plato were to have assigned no reason for his opinion (observe how much I esteem the man), the weight of his authority would have borne me down; but he has brought so many reasons, that he appears to me to have endeavored to convince others, and certainly to have convinced himself.

XXII. But there are many who labor on the other side of the question, and condemn souls to death, as if they were criminals capitally convicted; nor have they any other reason to allege why the immortality of the soul appears to them to be incredible, except that they are not able to conceive what sort of thing the soul can be when disentangled from the body; just as if they could really form a correct idea as to what sort of thing it is, even when it is in the body; what its form, and size, and abode are; so that were they able to have a full view of all that is now hidden from them in a living body, they have no idea whether the soul would be discernible by them, or whether it is of so fine a texture that it would escape their sight. Let those consider this, who say that they are unable to form any idea of the soul without the body, and then they will see whether they can form any adequate idea of what it is when it is in the body. For my own part, when I reflect on the nature of the soul, it appears to me a far more perplexing and obscure question to determine what is its character while it is in the body, a place which, as it were, does not belong to it, than to imagine what it is when it leaves it, and

has arrived at the free æther, which is, if I may so say, its proper, its own habitation. For unless we are to say that we cannot apprehend the character or nature of anything which we have never seen, we certainly may be able to form some notion of God, and of the divine soul when released from the body. Dicæarchus, indeed, and Aristoxenus, because it was hard to understand the existence, and substance, and nature of the soul, asserted that there was no such thing as a soul at all. It is, indeed, the most difficult thing imaginable, to discern the soul by the soul. And this, doubtless, is the meaning of the precept of Apollo, which advises every one to know himself. For I do not apprehend the meaning of the god to have been, that we should understand our members, our stature, and form; for we are not merely bodies; nor, when I say these things to you, am I addressing myself to your body: when, therefore, he says, "Know yourself," he says this, "Inform yourself of the nature of your soul;" for the body is but a kind of receptacle of the soul, and whatever your soul does is your own act. To know the soul, then, unless it had been divine, would not have been a precept of such excellent wisdom, as to be attributed to a god; but even though the soul should not know of what nature itself is, will you say that it does not even perceive that it exists at all, or that it has motion? on which is founded that reason of Plato's, which is explained by Socrates in the Phædrus, and inserted by me, in my sixth book of the Republic.

XXIII. "That which is always moved is eternal; but that which gives motion to something else, and is moved itself by some external cause, when that motion ceases, must necessarily cease to exist. That, therefore, alone, which is self-moved, because it is never forsaken by itself, can never cease to be moved. Besides, it is the beginning and principle of motion to everything else; but whatever is a principle has no beginning, for all things arise from that principle, and it can not itself owe its rise to anything else; for then it would not be a principle did it proceed from anything else. But if it has no beginning, it never will have any end; for a principle which is once extinguished, can not itself be restored by anything else, nor can it produce anything else from itself; inasmuch as all things must necessarily arise from some first cause. And thus it comes about, that the first principle of motion must arise from that thing which is itself moved by itself; and that can neither have a beginning nor an end of its existence, for otherwise the whole heaven and earth would be overset, and all nature would stand still, and not be able to acquire any force, by the impulse of which it might be first set in motion. Seeing, then, that it is clear, that what-

ever moves itself is eternal, can there be any doubt that the soul is so? For everything is inanimate which is moved by an external force; but everything which is animate is moved by an interior force, which also belongs to itself. For this is the peculiar nature and power of the soul; and if the soul be the only thing in the whole world which has the power of self-motion, then certainly it never had a beginning, and therefore it is eternal."

Now, should all the lower order of philosophers, (for so I think they may be called, who dissent from Plato and Socrates and that school,) unite their force, they never would be able to explain anything so elegantly as this, nor even to understand how ingeniously this conclusion is drawn. The soul, then, perceives itself to have motion, and at the same time that it gets that perception, it is sensible that it derives that motion from its own power, and not from the agency of another; and it is impossible that it should ever forsake itself; and these premises compel you to allow its eternity, unless you have something to say against them.

A. I should myself be very well pleased not to have even a thought arise in my mind against them, so much am I inclined to that opinion.

XXIV. *M.* Well then, I appeal to you, if the arguments which prove that there is something divine in the souls of men are not equally strong? but if I could account for the origin of these divine properties, then I might also be able to explain how they might cease to exist; for I think I can account for the manner in which the blood, and bile, and phlegm, and bones, and nerves, and veins, and all the limbs, and the shape of the whole body, were put together and made; aye, and even as to the soul itself, were there nothing more in it than a principle of life, then the life of a man might be put upon the same footing as that of a vine or any other tree, and accounted for as caused by nature; for these things, as we say, live. Besides, if desires and aversions were all that belonged to the soul, it would have them only in common with the beasts; but it has, in the first place, memory, and that, too, so infinite, as to collect an absolute countless number of circumstances, which Plato will have to be a recollection of a former life; for in that book which is inscribed Menon, Socrates asks a child some questions in geometry, with reference to measuring a square; his answers are such as a child would make, and yet the questions are so easy, that while answering them, one by one, he comes to the same point as if he had learned geometry. From whence Socrates would infer, that learn-

ing is nothing more than recollection; and this topic he explains more accurately, in the discourse which he held the very day he died; for he there asserts that any one who seeming to be entirely illiterate, is yet able to answer a question well that is proposed to him, does in so doing manifestly show that he is not learning it then, but recollecting it by his memory. Nor is it to be accounted for in any other way, how children come to have notions of so many and such important things, as are implanted, and as it were sealed up in their minds, (which the Greeks call *ennoiai,*) unless the soul before it entered the body had been well stored with knowledge. And as it had no existence at all, (for this is the invariable doctrine of Plato, who will not admit anything to have a real existence which had a beginning and an end, and who thinks that that alone does really exist which is of such a character as what he calls *eidea,* and we species,) therefore, being shut up in the body, it could not while in the body discover what it knows; but it knew it before, and brought the knowledge with it, so that we are no longer surprised at its extensive and multifarious knowledge; nor does the soul clearly discover its ideas at its first resort to this abode to which it is so unaccustomed, and which is in so disturbed a state; but after having refreshed and recollected itself, it then by its memory recovers them; and, therefore, to learn implies nothing more than to recollect. But I am in a particular manner surprised at memory; for what is that faculty by which we remember? what is its force what its nature? I am not inquiring how great a memory Simonides may be said to have had, or Theodectes, or that Cineas, who was sent to Rome as ambassador from Pyrrhus, or in more modern times Charmadas; or very lately, Metrodorus, the Scepsian, or our own contemporary, Hortensius; I am speaking of ordinary memory, and especially of those men who are employed in any important study or art, the great capacity of whose minds it is hard to estimate, such numbers of things do they remember.

XXV. Should you ask what this leads to, I think we may understand what that power is, and whence we have it. It certainly proceeds neither from the heart, nor from the blood, nor from the brain, nor from atoms; whether it be air or fire, I know not, nor am I, as those men are, ashamed in cases where I am ignorant, to own that I am so. If in any other obscure matter I were able to assert anything positively, then I would swear that the soul, be it air or fire, is divine. Just think, I beseech you,— can you imagine this wonderful power of memory to be sown in, or to be a part of the composition of the earth, or of this dark and gloomy atmosphere? Though you can not apprehend what it

is, yet you see what kind of thing it is, or if you do not quite see that, yet you certainly see how great it is. What then? shall we imagine that there is a kind of measure in the soul, into which, as into a vessel, all that we remember is poured? that indeed is absurd; for how shall we form any idea of the bottom, or of the shape or fashion of such a soul as that? And again, how are we to conceive how much it is able to contain? Shall we imagine the soul to receive impressions like wax, and memory to be marks of the impressions made on the soul? What are the characters of the words, what of the facts themselves? and what, again, is that prodigious greatness which can give rise to impressions of so many things? What, lastly, is that power which investigates secret things, and is called invention and contrivance? Does that man seem to be compounded of this earthly, mortal, and perishing nature, who first invented names for everything, which, if you will believe Pythagoras, is the highest pitch of wisdom? or he, who collected the dispersed inhabitants of the world, and united them in the bonds of social life? or he, who confined the sounds of the voice, which used to seem infinite, to the marks of a few letters? or he, who first observed the courses of the planets, their progressive motions, their laws? These were all great men; but they were greater still, who invented food, and raiment, and houses; who introduced civilization amongst us, and armed us against the wild beasts; by whom we were made sociable and polished, and so proceeded from the necessaries of life to its embellishments. For we have provided great entertainments for the ears, by inventing and modulating the variety and nature of sounds; we have learnt to survey the stars, not only those that are fixed, but also those which are improperly called wandering; and the man who has acquainted himself with all their revolutions and motions, is fairly considered to have a soul resembling the soul of that Being who has created those stars in the heavens; for when Archimedes described in a sphere the motions of the moon, sun, and five planets, he did the very same thing as Plato's God, in his Timæus, who made the world; causing one revolution to adjust motions differing as much as possible in their slowness and velocity. Now, allowing that what we see in the world could not be effected without a God, Archimedes could not have imitated the same motions in his sphere without a divine soul.

XXVI. To me, indeed, it appears that even those studies which are more common and in greater esteem are not without some divine energy; so that I do not consider that a poet can produce a serious

and sublime poem, without some divine impulse working on his mind; nor do I think that eloquence, abounding with sonorous words and fruitful sentences, can flow thus, without something beyond mere human power. But as to philosophy, that is the parent of all the arts, what can we call that but, as Plato says, a gift, or as I express it, an invention of the gods? This it was which first taught us the worship of the gods; and then led us on to justice, which arises from the human race being formed into society: and after that it imbued us with modesty, and elevation of soul. This it was which dispersed darkness from our souls, as it is dispelled from our eyes, enabling us to see all things that are above or below, the beginning, end, and middle of every thing. I am convinced entirely, that that which could effect so many and such great things must be a divine power. For what is memory of words and circumstances? what, too, is invention? Surely they are things than which nothing greater can be conceived in a god! for I do not imagine the gods to be delighted with nectar and ambrosia, or with Juventas presenting them with a cup; nor do I put any faith in Homer, who says that Ganymede was carried away by the gods, on account of his beauty, in order to give Jupiter his wine. Too weak reasons for doing Laomedon such injury! These were mere inventions of Homer, who gave his gods the imperfections of men. I would rather that he had given men the perfections of the gods! those perfections, I mean, of uninterrupted health, wisdom, invention, memory. Therefore the soul (which is, as I say, divine,) is, as Euripides more boldly expresses it, a god. And thus, if the divinity be air or fire, the soul of man is the same: for as that celestial nature has nothing earthly or humid about it, in like manner the soul of man is also free from both these qualities: but if it is of that fifth kind of nature, first introduced by Aristotle, then both gods and souls are of the same.

XXVII. As this is my opinion, I have explained it in these very words, in my book of Consolation. The origin of the soul of man is not to be found upon earth, for there is nothing in the soul of a mixed or concrete nature, or that has any appearance of being formed or made out of the earth; nothing even humid, or airy, or fiery; for what is there in natures of that kind which has the power of memory, understanding, or thought? which can recollect the past; foresee the future; and comprehend the present? for these capabilities are confined to divine beings; nor can we discover any source from which men could derive them, but from God. There is therefore a peculiar nature and power in the soul, distinct from those natures which are more

known and familiar to us. Whatever, then, that is which thinks, and which has understanding, and volition, and a principle of life, is heavenly and divine, and on that account must necessarily be eternal: nor can God himself, who is known to us, be conceived to be anything else except a soul free and unembarrassed, distinct from all mortal concretion, acquainted with everything, and giving motion to everything, and itself endued with perpetual motion.

XXVIII. Of this kind and nature is the intellect of man. Where, then, is this intellect seated, and of what character is it? where is your own, and what is its character? are you able to tell? If I have not faculties for knowing all that I could desire to know, will you not even allow me to make use of those which I have? The soul has not sufficient capacity to comprehend itself; yet, the soul, like the eye, though it has no distinct view of itself, sees other things: it does not see (which is of least consequence) its own shape; perhaps not, though it possibly may; but we will pass that by: but it certainly sees that it has vigor, sagacity, memory, motion, and velocity; these are all great, divine, eternal properties. What its appearance is, or where it dwells, it is not necessary even to inquire. As when we behold, first of all, the beauty and brilliant appearance of the heavens; secondly, the vast velocity of its revolutions, beyond power of our imagination to conceive; then the vicissitudes of nights and days; the four-fold division of the seasons, so well adapted to the ripening of the fruits of the earth, and the temperature of our bodies; and after that we look up to the sun, the moderator and governor of all these things; and view the moon, by the increase and decrease of its light, making, as it were, and appointing our holy days; and see the five planets, borne on in the same circle, divided into twelve parts, preserving the same course with the greatest regularity, but with utterly dissimilar motions amongst themselves; and the nightly appearance of the heaven, adorned on all sides with stars; then, the globe of the earth, raised above the sea, and placed in the center of the universe, inhabited and cultivated in its two opposite extremities; one of which, the place of our habitation, is situated towards the north pole, under the seven stars:—

> Where the cold northern blasts, with horrid sound,
> Harden to ice the snowy cover'd ground,—

the other, towards the south pole, is unknown to us; but is called by the Greeks *antichthona*: the other parts are uncultivated, because they

are either frozen with cold, or burnt up with heat: but where we dwell, it never fails in its season,

> To yield a placid sky, to bid the trees
> Assume the lively verdure of their leaves:
> The vine to bud, and, joyful in its shoots,
> Foretell the approaching vintage of its fruits:
> The ripen'd corn to sing, whilst all around
> Full riv'lets glide; and flowers deck the ground:—

then the multitude of cattle, fit part for food, part for tilling the ground, others for carrying us, or for clothing us; and man himself, made as it were on purpose to contemplate the heavens and the gods, and to pay adoration to them; lastly, the whole earth, and wide extending seas, given to man's use. When we view these, and numberless other things, can we doubt that they have some being who presides over them, or has made them (if, indeed, they have been made, as is the opinion of Plato, or if, as Aristotle thinks, they are eternal), or who at all events is the regulator of so immense a fabric and so great a blessing to men? Thus, though you see not the soul of man, as you see not the Deity, yet, as by the contemplation of his works you are led to acknowledge a God, so you must own the divine power of the soul, from its remembering things, from its invention, from the quickness of its motion, and from all the beauty of virtue. Where, then, is it seated, you will say?

XXIX. In my opinion it is seated in the head, and I can bring you reasons for my adopting that opinion. At present, let the soul reside where it will, you certainly have one in you. Should you ask what its nature is? It has one peculiarly its own; but admitting it to consist of fire, or air, it does not affect the present question; only observe this, that as you are convinced there is a God, though you are ignorant where he resides, and what shape he is of; in like manner you ought to feel assured that you have a soul, though you can not satisfy yourself of the place of its residence, nor its form. In our knowledge of the soul, unless we are grossly ignorant of natural philosophy, we can not but be satisfied that it has nothing but what is simple, unmixed, uncompounded, and single; and if this is admitted, then it can not be separated, nor divided, nor dispersed, nor parted, and therefore it can not perish; for to perish implies a parting asunder, a division, a disunion of those parts which, whilst it subsisted, were held together by some band; and it was because he was influenced by these and similar reasons that Socrates neither looked out for anybody to plead for him

when he was accused, nor begged any favor from his judges, but maintained a manly freedom, which was the effect not of pride, but of the true greatness of his soul: and on the last day of his life, he held a long discourse on this subject; and a few days before, when he might have been easily freed from his confinement, he refused to be so, and when he had almost actually hold of that deadly cup, he spoke with the air of a man not forced to die, but ascending into heaven.

XXX. For so indeed he thought himself, and thus he spoke:—"That there were two ways, and that the souls of men, at their departure from the body, took different roads, for those which were polluted with vices, that are common to men, and which had given themselves up entirely to unclean desires, and had become so blinded by them as to have habituated themselves to all manner of debauchery and profligacy, or to have laid detestable schemes for the ruin of their country, took a road wide of that which led to the assembly of the gods: but they who had preserved themselves upright and chaste, and free from the slightest contagion of the body, and had always kept themselves as far as possible at a distance from it, and whilst on earth, had proposed to themselves as a model the life of the gods, found the return to those beings from whom they had come an easy one." Therefore he argues, that all good and wise men should take example from the swans, who are considered sacred to Apollo, not without reason, but particularly because they seem to have received the gift of divination from him, by which, foreseeing how happy it is to die, they leave this world with singing and joy. Nor can any one doubt of this, unless it happens to us who think with care and anxiety about the soul, (as is often the case with those who look earnestly at the setting sun,) to lose the sight of if entirely: and so the mind's eye viewing itself, sometimes grows dull, and for that reason we become remiss in our contemplation. Thus our reasoning is borne about, harassed with doubts and anxieties, not knowing how to proceed, but measuring back again those dangerous tracts which it has passed, like a boat tossed about on the boundless ocean. But these reflections are of long standing, and borrowed from the Greeks. But Cato left this world in such a manner, as if he were delighted that he had found an opportunity of dying; for that God who presides in us, forbids our departure hence without his leave. But when God himself has given us a just cause, as formerly he did to Socrates, and lately to Cato, and often to many others,—in such a case, certainly every man of sense would gladly exchange this darkness, for that light: not that he would forcibly break from the chains that held

him, for that would be against the law; but like a man released from prison by a magistrate, or some lawful authority, so he too would walk away, being released and discharged by God. For the whole life of a philosopher is, as the same philosopher says, a meditation on death. —Tusculan Disputations, Bk. I.

TRANSLATION OF C. D. YONGE.

LUCRETIUS

TITUS LUCRETIUS CARUS was born of a noble family about 98 B. C. and died about 55 B. C. Practically nothing further is known of his life.

Lucretius was a disciple of Epicurus and his poem, De Rerum Natura (On the Nature of Things), molds the Epicurean doctrines into verse. It will be remembered that Epicurus both accepted in a modified way the atomic theory of Demokritos, and maintained that the chief good in life was the calm enjoyment of the nobler forms of pleasure, free from all superstition and error. We have given below Lucretius' arguments for the theory that the whole universe is but the result of the concourse of purposeless atoms, and his application of this theory to the question of life after death. Though his words are the best expression of the thought of his school, he was no mere imitator: whatever thought he expressed he had made his own, and his whole poem blazes with the fire of genius. He is the most vigorous of Latin poets, and probably the most forceful thinker in verse that the world has ever known.

PRINCIPLES OF THE ATOMIC THEORY

TERROR and darkness of the mind, therefore, it is not the rays of the sun, or the bright shafts of day, that must dispel, but reason and the contemplation of nature; of which our first principle shall hence take its commencement, THAT NOTHING IS EVER DIVINELY GENERATED FROM NOTHING. For thus *it is that* fear restrains all men, because they observe many things effected on the earth and in heaven, of which effects they can by no means see the causes, and *therefore* think that they are wrought by a divine power. For which reasons, when we shall have *clearly* seen that NOTHING CAN BE PRODUCED FROM NOTHING, we shall then have a more accurate perception of that of which we are in search, and *shall understand* whence each individual thing is generated, and how all things are done without the agency of the gods.

For if *things* came forth from nothing, every kind of *thing* might be produced from all things; nothing would require seed. In the first place, men might spring from the sea; the scaly tribe, and birds, *might spring* from the earth; herds, and other cattle, might burst from the sky; the cultivated fields, as well as the deserts, might contain every kind of wild animal, without any settled *law* of production; nor would the same fruits be constant to the *same* trees, but would be changed; *and* all *trees* might bear all *kinds of fruit.* Since, when there should not be generative elements for each *production,* how could a certain parent-producer remain invariable for *all individual* things? But now, because all things are severally produced from certain seeds, *each* is produced, and comes forth into the regions of light, from that spot in which the matter, and first elements of each, subsist. And for this cause all things can not be produced from all, inasmuch as there are distinct *and peculiar* faculties in certain substances.

Besides, why do we see the rose put forth in spring, corn in *summer* heat, and vines under the influence of autumn, if *it be* not because, when the determinate seeds of things have united together at their *proper* time, whatever is produced appears while the seasons are favorable, and *while* the vigorous earth securely brings forth her tender productions into the regions of light. But if *these* were generated from nothing,

they might arise suddenly at indefinite periods, and at unsuitable seasons of the year, inasmuch as there would be no original elements, which might be restrained from a generative combination at *any* season, *however* inconvenient.

Nor, moreover, would there be need of time for the coming together of seed for the growth of things, if they could grow out of nothing. For young men might on a sudden be formed from puny infants, and groves, springing up unexpectedly, might dart forth from the earth; of which things it is plain that none happen, since all things grow gradually, as is fitting, from unvarying atoms, and, as they grow, preserve their kind, so that you may understand that all things individually are enlarged and nourished from their own *specific* matter.

Add to this, that the earth cannot furnish her cheering fruits without certain rains in the year; nor, moreover, can the nature of animals, if kept from food, propagate their kind, and sustain life; *so* that you may rather deem that many elements are common to many things, (as we see letters *common to many* words), than that any thing can exist without *its proper* elements.

Still further, why could not nature produce men of such a size that they might ford the sea on foot, and rend great mountains with their hands, and outlast in existence many ages of *human* life, if *it be* not because certain matter has been assigned for producing *certain* things, from which *matter* it is fixed what can *or cannot* arise? It must be admitted therefore, that nothing can be made from nothing, since things have need of seed, from which all individually being produced, may be brought forth into the gentle air of heaven.

Lastly, since we observe that cultivated places excel the uncultivated, and yield to our hands better fruits, we may see that there are in the ground the primitive elements of things, which we, in turning the fertile glebe with the ploughshare, and subjugating the soil of the earth, force into birth. But were there no *such seeds,* you might see things severally *grow up and* become much better of their own accord without our labor.

Add, too, that nature resolves each thing into its own *constituent* elements, and DOES NOT REDUCE ANY THING TO NOTHING.

For if any thing were perishable in all its parts, every thing might *then* dissolve, being snatched suddenly from before our eyes; for there would be no need of force to produce a separation of its parts, and break *their* connexion. Whereas now, since all things individually consist of eternal seed, nature does not suffer the destruction of any thing to be

seen, until such power assail them as to sever them with a blow, or penetrate inwardly through the vacant spaces, and dissolve *the parts.*

Besides, if time utterly destroys whatever things it removes through length of age, consuming all their *constituent* matter, whence does Venus restore to the light of life the race of animals according to their kinds? Whence does the variegated earth nourish and develop them, when restored, affording them sustenance according to their kinds? Whence do pure fountains, and eternal rivers *flowing* from afar, supply the sea? Whence does the æther feed the stars? For infinite time already past, and *length of* days, ought to have consumed all things which are of mortal consistence: but if *those elements,* of which this sum of things consists and is renewed, have existed through that *long* space, and that past duration of time, they are assuredly endowed with an immortal nature. Things therefore cannot return to nothing.

Further, the same force and cause might destroy all things indiscriminately, unless an eternal matter held them more or less bound by mutual connexion. For a *mere* touch, indeed, would be a sufficient cause of destruction, supposing that there were no *parts* of eternal consistence, *but all perishable,* the union of which any force might dissolve. But now, because various connexions of elements unite together, and matter is eternal, things continue of unimpaired consistence, until some force of sufficient strength be found to assail them, proportioned to the texture of each. No thing, therefore, relapses into non-existence, but all things at dissolution return to the first principles of matter.

Lastly, *you may say, perhaps,* the showers of rain perish, when Father Æther has poured them down into the lap of Mother Earth. But *it is not so; for* hence the smiling fruits arise, and the branches become verdant on the trees; *the trees* themselves increase, and are weighed down with produce. Hence, moreover, is nourished the race of man, and that of beasts; hence we see joyous cities abound with youth, and the leafy woods resound on every side with newly fledged birds; hence the weary cattle, sleek in the rich pastures, repose their bodies, and the white milky liquor flows from their distended udders; hence the new offspring gambol sportive, with tottering limbs, over the tender grass, their youthful hearts exhilarated with pure milk. Things, therefore, do not utterly perish, which seem to do so, since Nature recruits one thing from another, nor suffers any thing to be produced, unless *its production be* furthered by the death of another.

Attend, now *further:* since I have shown that things cannot be produced from nothing, and also that, when produced, *they cannot*

return to nothing, yet, lest haply thou shouldst begin to distrust my words, because the primary particles of things cannot be discerned by the eye, hear, in addition, what substances thou thyself must necessarily confess to exist, although impossible to be seen.

In the first place, the force of the wind, when excited, lashes the sea, agitates the tall ships, and scatters the clouds; at times, sweeping over *the earth* with an impetuous hurricane, it strews the plains with huge trees, and harasses the mountain-tops with forest-rending blasts; so *violently* does the deep chafe with fierce roar and rage with menacing murmur. The winds, then, are invisible bodies, which sweep the sea, the land, the clouds of heaven, and, agitating *them,* carry *them* along with a sudden tornado. Not otherwise do they rush forth, and spread destruction, than *as* when a body of liquid water is borne along in an overwhelming stream, which a vast torrent from the lofty mountains swells with large rain-floods, dashing together fragments of woods and entire groves; nor can the strong bridges sustain the sudden force of the sweeping water, with such overwhelming violence does the river, turbid with copious rain, rush against the *opposing* mounds; it scatters ruin with a mighty uproar, and rolls huge rocks under its waters; it rushes on *triumphant* wheresoever any thing opposes its waves. Thus, therefore, must the blasts of the wind also be borne along; which (when, like a mighty flood, they have bent their force in any direction) drive all things before them, and overthrow them with repeated assaults, and sometimes catch them up in a writhing vortex and rapidly bear them off in a whirling hurricane. Wherefore, I repeat, the winds are substances, *though* invisible, since in their effects, and modes *of operation,* they are found to rival mighty rivers, which are of manifest bodily substance.

Moreover we perceive various odors of objects, and yet never see them approaching our nostrils. Nor do we behold violent heat, or distinguish cold with our eyes; nor are we in the habit of viewing sounds; all which things, however, must of necessity consist of a corporeal nature, since they have the power of striking the sense: FOR NOTHING, EXCEPT BODILY SUBSTANCE, CAN TOUCH OR BE TOUCHED.

Further, garments, when suspended upon a shore on which waves are broken, grow moist; the same, when spread out in the sun, become dry; yet neither has it been observed how the moisture of the water settled in them, nor, on the other hand, how it escaped under the influence of the heat. The moisture, therefore, is dispersed into minute particles, which our eyes can by no means perceive.

Besides, in the course of many revolutions of the sun, a ring upon

the finger is made somewhat thinner by wearing *it;* the fall of the drop from the eaves hollows a stone; the crooked share of the plough, *though* made of iron, imperceptibly decreases in the fields; even the stone pavements of the streets we see worn by the feet of the multitude; and the brazen statues, *which stand* near the gates, show their right hands made smaller by the touch of people frequently saluting them, and passing by. These objects, therefore, after they have been worn, we observe to become diminished; but what particles take their departure on each particular occasion, jealous nature has withheld from us the faculty of seeing.

Lastly, whatever *substances* time and nature add little by little to objects, obliging them to increase gradually, *those substances* no acuteness of vision, *however earnestly* exerted, can perceive; nor, moreover, whatever *substances* waste away through age and decay; nor can you discern what the rocks, which overhang the sea, *and are* eaten by the corroding salt *of the ocean,* lose every time *that they are washed by the waves.* Nature, therefore, carries on her operations by imperceptible particles.

Now, however, are all things held enclosed by corporeal substance; for there is a VOID in things; *a truth* which it will be useful for you, in reference to many points, to know; and which will prevent you from wandering in doubt, and from perpetually inquiring about the ENTIRE OF THINGS, and from being distrustful of my words. Wherefore, *I say,* there is space INTANGIBLE, EMPTY, and VACANT. If this were not the case, things could by no means be moved; for that which is the quality of body, *namely,* to obstruct and to oppose, would be present *at all times, and would be exerted* against all *bodies;* nothing, therefore, would be able to move forward, since nothing would begin to give way. But now, throughout the sea and land and heights of heaven, we see many things moved before our eyes in various ways *and* by various means, which, if there were no void, would not so much want *their* active motion, *as being* deprived *of it,* as they would, *properly speaking,* never by any means have been produced at all; since matter, crowded together on all sides, would have remained at rest, *and have been unable to act.*

Besides, although *some* things may be regarded as solid, yet you may, for the following reasons, perceive them to be of a porous consistence. In rocks and caves, the liquid moisture of the waters penetrates *their substance,* and all parts weep, *as it were,* with abundant drops; food distributes itself through the whole of the body in animals;

the groves increase, and yield their fruits in their season, because nourishment is diffused through the whole *of the trees,* even from the lowest roots, over all the trunks and branches; voices pass through the walls, and fly across the closed *apartments* of houses; keen frost penetrates to *the very marrow of* our bones; which *kind of effects,* unless there were void spaces *in bodies,* where the several particles might pass, you would never by any means observe to take place.

Lastly, why do we see some things exceed other things in weight, *though* of no greater shape *and bulk?* For, if there is just as much substance in a ball of wool as there is in *a ball of* lead, it is natural that they should weigh the same, since it is the property of all bodily substance to press every thing downwards; but the nature of a VOID, on the contrary, continues without weight. That *body,* therefore, which is equally large *with another,* and is evidently lighter, shows plainly that it contains a greater portion of VACUITY. But the heavier *body,* on the other hand, indicates that there is in it more material substance, and that it comprises much less empty space.

That, therefore, which we are now, by the aid of searching argument, investigating, *that, namely,* which we call VOID, is doubtless mixed among material substances.

In *considering* these matters, I am obliged to anticipate that *objection* which some imagine, lest it should seduce you from the truth. They say, *for instance,* that water yields to fishes pushing *forwards,* and opens liquid passages, since the fish leave spaces behind *them,* into which the yielding waters may make a conflux; so also that other things may be moved among themselves, and change their place, although all *parts of space* be full. *But* this notion, it is evident, has been wholly conceived from false reasoning. For in what direction, I pray, will fish be able to go forward, if the water shall not give them room? *Or* in what direction, moreover, will the water have power to yield, supposing the fish shall have no power to go forward *to divide it?* Either, therefore, we must deny motion to all bodies whatsoever, or we must admit that vacuity is *more or less* inherent in *all* material substances, whence every thing *that moves* derives the first commencement of its motion.

Lastly, if two broad *and flat bodies,* after having come into collision, suddenly start asunder, it is clear that air must necessarily take possession of all the vacuum which is *then* formed between the bodies. *And* further, although that *air* may *quickly* unite to flow *into the vacancy,* with blasts blowing rapidly from all sides, yet the whole space will not be able to be filled at once; for the *air* must of necessity occupy some

part first, *then another, till* in succession all *parts* be occupied.

But if any person perchance, when the bodies have started asunder, thinks that that *separation* is thus effected by reason that the air condenses itself, he is in error; for a vacuum is then formed *between the bodies,* which was not *there* before, and *the part* likewise *behind the bodies,* which was vacant before, is filled; nor can air be condensed in such a way; nor, even if it could, would it have the power, I think, to draw *itself* into itself, and unite its particles together without *the aid of* a void. For which reason, although you may long hesitate, alleging many *objections,* you must nevertheless *at last* confess that there is vacuum in bodies.

I have the ability, moreover, to collect credit for my doctrines, by adducing many *additional* arguments. But these small traces *which I have indicated* will be sufficient for a sagacious mind; *traces* by which, indeed, you yourself may discover others. For as dogs, when they have once lighted upon certain tracks on the path, very frequently find by their scent the lair of a wild beast that ranges over the mountains, though covered over with leaves; so you yourself will be able, in such matters *as these,* to note, of your own *sagacity,* one *principle* after another, and to penetrate every dark obscurity, and thence to elicit truth.

But if you shall be slow *to assent,* Oh Memmius, or *if* you shall at all shrink back from the subject, I can *still* certainly give you the following assurance. My tongue, *so* agreeable *to you,* will have the power of pouring forth from my well-stored breast such copious draughts from mighty sources, that I fear lest slow old age may creep over our limbs, and break down the gates of life within us, before all the abundance of arguments in my verses, concerning any one subject, can have been poured into your ears. But now, that I may resume my efforts to complete in verse the weaving of *the web* wihch I have begun, *give me a little more of your attention.*

As it is, therefore, all nature of itself has consisted, *and consists,* of two parts; for there are bodily substances, and vacant *space,* in which these *substances* are situate, and in which they are moved in different directions. For the common perception *of all men* shows that there is corporeal consistence; of *the existence of* which, unless the belief shall be first firmly established, there will be no *principle* by reference to which we may succeed, by any means whatever, in setting the mind with argument concerning matters not obvious to sense.

To proceed then, if there were no place, and *no* space which we call vacant, bodies could not be situated any where, nor could at all move

any whither in different directions; a fact which we have shown to you a little before.

Besides, there is nothing which you can say is separate from all bodily substance, and distinct from empty space; which would, indeed, be as it were a third kind of nature. For whatsoever shall exist, must *in* itself be something, either of large bulk, or ever so diminutive, provided it be at all; when, if it shall be *sensible to* the touch, however light and delicate, it will increase the number of bodies, and be ranked in the multitude of them; but if it shall be intangible, inasmuch as it cannot hinder in any part any object proceeding to pass through it, it *then,* you may be sure, will be the empty space which we call a vacuum.

Moreover, whatsoever shall exist of itself, will either *do* something, or will be obliged TO SUFFER other things acting upon it, or will *simply* BE, so that other things may exist and be done in it. But nothing can DO OR SUFFER without *being possessed of* bodily substance, nor, moreover, afford place *for acting and suffering,* unless *it be* empty and vacant space. No third nature, therefore, *distinct* in itself, besides vacant space and material substance, can possibly be left *undiscovered* in the sum of things; no *third kind of being,* which can at any time fall under *the notice of* our senses, or which any one can find out by the exercise of his reason.

For whatsoever *other* things are said *to be,* you will find them to be either *necessary* ADJUNCTS of these two things, or *accidents* of them. A *necessary* ADJUNCT is that which can never be separated and disjoined *from its body* without a disunion attended with destruction *to that body;* as the weight of a stone, the heat of fire, the fluidity of water; *sensibility to* touch in all bodies, insensibility to touch in empty space. On the other hand, *such things as* slavery, poverty, riches, liberty, war, concord, *and* other things, by the coming or going of which the nature *of the subject affected* remains uninjured, these we are accustomed (as is proper) to call ACCIDENTS.

Time, likewise, is not an existence in itself, but *it is merely* our understanding *that* collects from things themselves what HAS BEEN DONE *in the past* age; what also IS PRESENT; what, moreover, MAY FOLLOW afterwards. And it must be owned that no one has conceived of time *existing* by itself apart from *progressive* motion and quiet rest.

Moreover, when *writers* say that Helen WAS carried off, and that the Trojan people WERE subdued in war, we must take care lest, perchance, *those writers* induce us to admit that those *events, viz., the abduction of Helen and the subjugation of the Trojans,* WERE of them-

selves; when time, irrevocably past, has carried away those generations of men, of whom these *transactions* were the events *or accidents.* For whatever shall have been done, will probably be called an event *or accident,* whether *occurring* to lands, or to legions (*that is, men*) themselves.

Furthermore, if there were not *this* bodily substance in things, nor this room and space in which all things severally are done, the flame lighted up by the love of Helen's beauty, spreading through the breast of the Phrygian Paris, would never have kindled the famous contests of cruel warfare; nor would the wooden horse have secretly set fire to the citadel of the Trojans by a nocturnal delivery of Greeks. So that you may plainly see that all transactions whatsoever do not CONSIST or EXIST of themselves, as body *does,* nor are spoken of as existing in the same way as a vacuum exists; but rather that you may justly call them events *or accidents* of body, or of space in which all transactions are brought to pass.

Bodies, besides, are partly original elements of things, and partly those which are formed of a combination of *those* elements. But those which are elements of things, no force can break; for they successfully resist *all force* by solidity of substance; although, perhaps, it seems difficult *to believe* that any thing of so solid a substance can be found in nature; for the lightning of heaven passes through the walls of houses, as *also* noise and voices *pass;* iron glows, *being penetrated by heat,* in the fire; rocks often burst with fervent heat; the hardness of gold, losing its firmness, is dissolved by heat; the icy coldness of brass, overcome by flame, melts; heat, and penetrable cold, enter into *the substance of* silver, for we have felt both with the hand, when, as we held *silver* cups after our fashion, water was poured into *them* from above; so that, as far as *these instances go,* there seems to be nothing solid in nature. But because, however, right reason, and the nature of things, compel *me to hold a contrary opinion,* grant me your attention *a while,* until I make it plain, in a few verses, that there really exist such bodies as are of a solid and eternal corporeal substance; which *bodies* we prove to be seeds and primary particles of things, of which the whole generated universe now consists.

Furthermore, since in things which are produced, *or compounded of matter,* there is *found* empty space, solid matter must exist around it; nor can any thing be proved by just argument to conceal vacuity, and to contain *it* within its body, unless you admit that that which contains *it* is a solid. But that *solid* can be nothing but a combination of matter, *such* as may have the power of keeping a vacuity enclosed. *That* mat-

ter, therefore, which consists of solid body, may be eternal, while other *substances, which are only compounds of this matter,* may be dissolved.

In addition, too, if there were no space to be vacant and unoccupied, all *space* would be solid. On the other hand, unless there were certain bodies to fill up completely the *places* which they occupy, all space, which *any where* exists, would be an empty void. Body, therefore, is evidently distinct from empty space, *though each has its place* alternately; since *all space* neither exists entirely full, nor, again, *entirely* empty. There exist, therefore, certain bodies which can *completely fill the places which they occupy,* and distinguish empty space from full.

These bodies, *which thus completely fill space,* can neither be broken in pieces *by* being struck with blows externally, nor, again, can be decomposed *by* being penetrated internally; nor can they be made to yield *if* attempted by any other method; a *principle* which we have demonstrated to you a little above; for neither does it seem possible for any thing to be dashed in pieces without a vacuum, nor to be broken, nor to be divided into two by cutting; nor to admit moisture, nor, moreover, subtle cold, nor penetrating fire, by which *operations and means* all things *compounded* are dissolved. And the more any thing contains empty space within it, the more it yields when thoroughly tried by these means. If, therefore, the primary atoms are solid and without void, they must of necessity be eternal.

Again, unless there had been eternal matter, all things, before this time, would have been utterly reduced to nothing; and whatsoever *objects* we behold would have been reproduced from nothing. But since I have shown above, that nothing can be produced from nothing, and that that which has been produced *cannot* be resolved into nothing, the primary elements must be of an imperishable substance, into which *primary elements* every body may be dissolved, so that matter may be supplied for the reproduction of things. The primordial elements, therefore, are of pure solidity; nor could they otherwise, preserved, *as they have been,* for ages, repair things, *as they have done,* through *that* infinite space of time *which has elapsed since the commencement of this material system.*

Besides, if nature had set no limit to the destruction of things, the particles of matter would, by this time, have been so reduced, *by reason of every* former age wasting them, that nobody compounded of them could, from any certain time, *however remote,* reach full maturity of existence. For we see that any thing may be sooner taken to pieces than put together again; for which reason, that which the infinitely long dur-

ation of all past time had broken into parts, disturbing and dissevering it, could never be repaired in time to come. But now, as is evident, there remains appointed a certain limit to destruction, since we see every thing recruited, and stated portions of time assigned to every thing according to its kind, in which it may be able to attain full vigor to its kind, in which it may be able to attain full vigor of age.

To this is added, that though the *primary* particles of matter are perfectly solid, yet that all things, which are formed *of them,* may be rendered soft *and yielding, as* air, water, earth, fire (in whatever way they may be produced, and by whatever influence they may be directed); *but this happens* because there is vacant space intermingled with *the substance of* things *compounded.* But, on the other hand, if the primordial elements of things were soft, how strong flints and iron could be produced, no explanation could be given, for, *by this supposition,* nature will be deprived of all *possibility of* commencing a foundation. *The primordial elements,* therefore, are endowed with pure solidity; by the dense combination of which all *compound bodies* may be closely compacted, and exhibit powerful strength.

Moreover, if *you still persist to say that* no limit has been appointed to the dissolution of bodies, *you will then,* however, *have to allow that* there must remain certain *dissoluble* bodies in the world, which have not yet been assailed with any trial *of their strength.* But since *dissoluble bodies* are endued *only* with a fragile nature, it is inconsistent *to suppose* that they could have lasted through an infinite course of time, *if they had been* harassed, age *after age,* with innumerable assaults.

Further, since also a limit has been assigned for the growth of things according to their kinds, and for their support of life; and since it is established by the laws of Nature what each kind can or cannot do; and *since* nothing is changed, but all things remain constant to such a degree, that even the birds of different plumage, all in succession, show, existing upon their bodies, spots distinctive of their species; we must grant that *such bodies* must have *in them* an immutable material substance. For if the primitive particles of things could be changed, *by* being successfully wrought upon in any way, it would then also become uncertain what might or might not arise *into being; it would be uncertain,* moreover, how far limited power, and a firmly fixed boundary, is *set* to each *kind;* nor, *with such a possibility of alteration,* would the tribes *of animals,* according to their kinds, be so constantly able to reproduce the nature, motions, mode of life, and habits of their progenitors.

Again, since even of such a body as our senses cannot perceive,

there is *yet* a certain extreme point, *whatever it be,* that point certainly exists without parts, and consists of the least *possible* natural substance; nor has it ever existed of itself, apart *from its body,* nor will it hereafter be able *so to exist,* since it is itself the first and last part of another *body;* after which other and other like parts in succession fill up, in a condensed mass, the substance of the body, which *parts,* since they cannot consist by themselves, must of necessity adhere *to something else,* from which they can by no means be detached.

Primordial atoms are therefore of pure solidity, which, composed of the smallest points, closely cohere; not combined of a union of any *other things,* but rather endowed with an eternal, simple, *and indissoluble* existence, from which nature allows nothing to be broken off, or even diminished, reserving *these primordial atoms as* seeds for *her* productions.

Moreover, unless there shall be *some* LEAST, *some point where division ends,* the smallest bodies will individually consist of infinite parts, as, in that case, *any* part of the half *of any body* will always have its own half; nor will any thing set a limit *to this division.* What, therefore, will be the difference *in their nature* between the greatest and smallest of bodies? It will not be possible that there should be any difference; for though the whole entire sum of things, *or the Universe,* be infinite, yet the smallest things which exist *in it* will equally consist of infinite parts. To which *position* since just reasoning is opposed, and denies that the mind can admit it, you must be prevailed upon to acknowledge that there are bodies which exist having no parts, and consist of the least possible substance; and since they are so, *since they are indivisible and undiminishable,* you must also concede that they are solid and eternal.

Further, unless Nature, the producer of things, had been accustomed to force all things to be resolved into minutest parts, the same *Nature* would now be unable to recruit any thing from those *parts;* because those *generated bodies* which are augmented *and repaired* by no parts, cannot have *and retain unimpaired* those *affections* which generative matter ought to have, *namely,* various connexions, weights, concussions, combinations, movements, by which things are severally brought to pass.

TRANSLATION OF JOHN SELBY WATSON.

ON IMMORTALITY

AND NOW ATTEND. That thou mayest understand that living creatures have minds, and subtle souls BORN and PERISHABLE, I will proceed to arrange verses worthy of thy life *and virtues, verses* collected during a long time, and prepared with sweet labor. *And* thou, *my friend,* take care to include both of them under one name, *whichsoever of the two I may use;* and, for example, when I proceed to speak of the soul, teaching that it is mortal, suppose that I also speak of the mind; inasmuch as they are one by mutual *combination,* and their substance is united.

In the first place, since I have shown that the *soul, being* subtle, consists of minute particles, and is composed of much smaller atoms than the clear fluid of water, or mist, or smoke; (for it far surpasses *those bodies* in susceptibility-of-motion, and is more readily impelled when acted upon from a slight cause; inasmuch as *both the mind and soul* are moved by the *mere* images of smoke and mist; as when, lulled in sleep, we see high altars exhale with vapor, and carry up smoke; since doubtless these phantasms are produced in us;) now, therefore, *I say,* since, when vessels are broken to pieces, you see water flow about, and *any other* liquid run away; and since, *also,* mist and smoke disperse into the air; *you must* conclude that the soul is likewise scattered abroad, and is dissipated much sooner *than mist and smoke,* and more easily resolved into *its* original elements, when it *has* once *been* withdrawn from the body of a man, *and* has taken its departure. For how can you believe that this *soul* can be held together by any *combination of* air, when the body itself (which is, as it were, its vessel) cannot contain it, *if it be* convulsed by any violence, or rendered thin *and weak* by blood being taken from the veins? How can *that air which is* more rare than our body confine it?

Besides, we observe that the mind is produced together with the body, and grows up along *with it,* and waxes old at the same time *with it.* For as children wander *and totter* about with a weak and tender body, so the subtle sense of the mind follows *and corresponds to the weakness of their frame.* Then, when their age has grown up in robust vigor, their understanding is also greater, and their strength of mind

more enlarged. Afterwards, when the body is shaken by the prevailing power of time, and, the strength being depressed, the limbs have sunk *into* infirmity, the understanding *then* halts, the tongue and the mind lose their sense, all *parts* fail and fade away at once. It is therefore natural that the whole substance of the soul should be dissolved, as smoke, into the sublime air of heaven; since we see that it is produced together with the body, and grows up together *with it,* and both, as I have shown, overcome by age, decay in concert.

To this is added, that as we observe the body itself to-be-subject-to violent diseases and severe pain, so *we see* the mind *to be susceptible of* sharp cares, and grief, and fear. For which cause it is reasonable that it should also be a partaker of death.

Moreover the mind, in diseases of the body, often wanders distracted; for it loses its faculties, and utters senseless words; and sometimes, by a heavy lethargy, is borne down into a deep and eternal sleep, the eyes and the nodding-head sinking; hence it neither hears the voice, nor can distinguish the countenances, of those who stand around recalling it to life, bedewing their faces and cheeks with tears. Wherefore you must necessarily admit that the mind is also dissolved, since the contagion of disease penetrates into it. For pain and disease are each the fabricator of death; *a truth* which we have been taught by the destruction of many *millions* in past times.

Further, when the violent power of wine has penetrated the heart of men, and its heat, being distributed, has spread into the veins, a heaviness of the limbs follows, the legs of the tottering person are impeded, the tongue grows torpid, the mind is, *as it were,* drowned; noise, hiccups, and quarrels arise, and other things of this kind, whatever are consequent *on intoxication.* Why do these *effects* happen, unless because the vehement force of the wine has exerted-its-customary-power to disturb the soul *as it is diffused* through the body itself? But whatsoever things can be *thus* disturbed and obstructed *in their operations,* show, that if a cause somewhat stronger shall spread within *them, the consequence* will be that they must perish, deprived of *all* future existence.

Further, the animated powers of the body and mind are vigorous, and enjoy life, only when joined with one another; for neither can the nature *or substance* of the mind, without the body, alone, *and* of itself, produce vital motions; nor again, *can* the body, deprived of the soul, continue *its state of existence,* and use its faculties. Just, for example, as the eye itself, torn from its roots, can discern no object apart from the whole body, so the mind or soul seems to have no power in itself;

evidently because when mingled throughout the veins and viscera, throughout the nerves and bones, they are held-in-close-confinement by the whole body, and their primary-particles, not being free, cannot fly asunder to great distances; consequently, being thus confined, they move with sensitive motions, with which, after death, when cast forth beyond the body into the air of heaven, they cannot move; for this very reason, that they are not held-confined in a similar manner. For *surely* the air forms body and soul, if the soul shall be able to keep itself together *in the air,* and to contain itself for *exerting* those motions, which it before exercised amidst the nerves, and in the body itself. On which account, *I say* again and again, you must necessarily admit that when the whole enclosure of the body is dissolved, and the vital breath cast forth, the sentient-existence of the mind and the soul is dissolved; since there is common cause *and like fate* to both.

Besides, when the body cannot bear the dissociation of the soul, without putrifying with offensive odor, why do you doubt but that the essence of the soul, rising from the depths and innermost part *of the body,* has passed forth, *and has been* diffused abroad like smoke? and that for this reason the body, decaying with so great a dissolution, has utterly fallen away, because the foundations have been removed from their place, and the spirits pass out through the limbs, and through all the windings of the passages and ducts that are in the body? So that you may understand from many considerations, that the nature *or substance* of the soul, being departed, has gone out through the members *of the body,* and that it was dissevered within the body itself, before, gliding outwards, it flowed forth into the air of heaven.

Moreover, whilst the soul dwells within the bounds of life, it yet frequently, when it has received a shock from some cause, seems to pass away, and *presents the appearance* that the mind is let loose from the whole body; and the countenance *then* seems to become inanimate as at the last hour, and all the relaxed members to fail the languid frame. Such is the case, when it is said that the mind has been damaged, or the vital power has suffered-syncope; while *all* is trepidation, and all are anxious to recover the last link of life. For then all the mind, and power of the soul, are shaken; and these, *it is evident,* sink with the body itself; *so* that a cause of somewhat greater force may bring *them* to dissolution.

Why *then* do you doubt, but that, *at the hour of death, the soul* driven forth at length, weak *and helpless,* out of the body, and being in the open air, with its covering removed, can not only not endure

throughout all time, but cannot even maintain-its-existence for the smallest space whatsoever?

Nor does any one, when dying, appear to feel his soul go forth entire from his whole body, or come up first to his throat, and to his jaws above *it;* but *he finds that part of it which is* placed in any certain portion *of the body,* fail *and decay* in that part; as he is conscious of the other senses losing-their-power each in its own quarter; but if our soul were immortal, it would not so much complain that it suffers dissolution when dying, but would rather rejoice to pass forth abroad, and to leave its covering, as a snake *delights to cast its skin,* or an old stag its too long antlers.

Again, why are the understanding and faculty of the mind never produced in the head, or the feet, or the hands, but remain-fixed, in all men alike, in their peculiar seats and definite quarters, if *it be not that* certain spots are assigned to each *part* to be born *in,* and where *each,* whatever *it be,* may preserve-its-existence when born; and *if it be not* that such is the case with respect to the whole of the various members, so that there may no where arise an improper arrangement of the parts? So invariably, *in the operations of nature,* does one thing follow another; nor is fire wont to be produced from rivers, or cold to be generated in fire.

Besides, if the nature of the soul is immortal, and can have-a-sentient-existence, when separated from our body, we must consider it, as I suppose, to be endowed with the five senses; nor in any other way can we represent to ourselves the infernal souls as wandering on *the banks of* the Acheron. Accordingly painters, and the past generations of writers, have introduced *in their compositions* souls thus endowed with senses. But neither can the eyes, nor the nostrils, nor *can* the tongue; nor can the ears perceive hearing, or even remain-in-being, apart *from the soul. How then can souls be possessed of the five senses, when all the organs of those senses have perished?*

And since we see that the vital sense spreads through the whole body, and that the whole is animated, if, on a sudden, any violence shall cut through *the body in the* middle, so as to sever the two parts asunder, the substance of the soul, also, without doubt, being disunited and divided together with the body, will be dispersed *and scattered abroad.* But that which is divided, and separates into any parts, evidently shows that it has not an ever-during nature.

People relate that chariots armed with scythes, warm with promiscuous slaughter, often cut off limbs with such suddenness, that the part

which, being severed, has fallen from the body, is seen to quiver on the ground, when, notwithstanding, the mind and spirit of the man, from the quickness of the wound, cannot feel any pain. And because at the same time, the mind, in the ardor of battle, is given up *to action,* it pursues fighting and slaughter with the remainder of the body; nor is *one man* aware, frequently, in the midst of the horses, that the wheels and amputating scythes have carried away his left hand, which is lost together with its defense; nor *is* another *conscious,* while he climbs the wall and presses forward, that his right hand has dropped off. A third next attempts to rise after having lost his leg, while his dying foot, close by *him,* moves its toes on the ground. And the head *of a fourth,* severed from the warm and living trunk, keeps, *while lying* on the ground, its look of life and its eyes open, until it has yielded up all remains of the soul within it.

Moreover, if, when the tongue of a serpent vibrates *against you,* and his tail and long body threaten *you,* you may feel inclined to cut both *tail and body* into several parts with your sword, you will see all the parts separately, cut through with the recent wound, writhe about, and sprinkle the earth with blood; and *you will observe* the fore part, turning backward, seeking itself, *that is, the hinder part of the body,* with its mouth, so that, pierced with the burning anguish of the wound, it may seize it with its teeth.

Shall we then say that there are entire souls in all those several parts? But from that position it will follow that one living creature had several souls in its *single* body. *And since this is absurd, we must admit,* therefore, *that* that has been divided which was one with the body; wherefore both must be thought to be mortal; since *both* are equally divided into several portions.

Besides, if the nature of the soul exists imperishable, and is infused into men at their birth, why are we unable to remember the period-of-existence previously *by us,* nor retain any traces of past transactions? For if the power of the mind is so exceedingly changed, that all remembrance of past things has departed from it, that change, as I think, is not far removed from death *itself.* For which reason you must of necessity acknowledge, that whatever *soul* previously existed has perished, and that that which exists for the present has been produced for the present.

Again, if, after the body is completely formed, the vital power of the soul is wont to be introduced into us at the very time when we are born and when we cross the threshold of life, it would not be in accord-

ance with this, that it should seem, *as it now seems,* to have grown up in the blood itself together with the body, and with its *several* members; but it would rather be natural that it should live alone, as in a cage, by itself *and* for itself; though *in such a manner,* that the whole body, *by its influence,* should abound with sense *and vitality.* For which reason, *I say* again and again, we must neither think that souls are without beginning, nor that they are exempt from the law of death. For neither must we deem that souls, *if* infused *into us* from without, could have been so completely united with our bodies; (which complete *union,* on the contrary, manifest experience proves to take place; for *the soul* is so combined *with the body* throughout the veins, viscera, nerves, and bones, that even the very teeth have a share of feeling; as their aching proves, and the acute-pain from cold water, and the cranching of a hard pebble suddenly among our food;) nor, when they are so *completely* united, does it seem possible for them to come out entire, and to extricate themselves unharmed from all the nerves, and bones, and joints.

But if *still,* perchance, you think that a soul, infused from without, is wont to expand itself through our limbs, *yet to admit this, is only to admit that* every man's *soul,* being spread out with the body, will so much the more *certainly* perish *with it. For that which is diffused throughout the body,* is dissolved with it, *and* therefore perishes. Being distributed, then, through all the passages of the body,—as food, when it is distributed through all the members and limbs, is dissolved, and takes of itself another nature,—so the soul and the mind, although, *under this supposition,* they go whole into the body at first, yet are dissolved, *like digested food,* in diffusing themselves *through it,* while the particles are distributed, as if through tubes, into all the limbs; *the particles, I say,* of which is formed this substance of the mind, which now rules in our body, and which has been generated, *like the new nature of food,* from that which lost its consistence when it was spread throughout the limbs.

For which reasons, the nature *or substance* of the soul seems neither to have been without a natal day, nor to be exempt from death.

Again, whether do any atoms of the soul remain in a dead body, or not? For if any remain and exist in *the body,* it will not be possible for *the soul* to be justly accounted immortal; since *when* she took her departure, *she was* diminished of *some* lost particles. But if, when removed, she fled with *all* her parts so entire, that she left no atoms of her substance in the body, whence do dead carcasses, when the viscera become putrid, send forth worms? And whence does such an abundance

of living creatures, void of bones and blood, swarm over the swollen limbs?

But if, perchance, you think that *perfectly-formed* souls may be insinuated into those worms from without, and if *you suppose* that they may pass each into its own body, and *yet* omit to consider for what cause many thousands of souls should congregate *in the place* from which one soul has withdrawn, this point, however, *which you leave out of consideration,* is *of such a nature,* that it seems *especially* worthy to be sought into and brought under examination. *It is proper not only to reflect,* I say, whether souls hunt for particular atoms of worms, and build for themselves *carcasses* in which they may dwell, or whether they infuse themselves into bodies already made; but *also to consider that* there is no reason to be given why they should make *bodies,* or why they should labor *at all;* for, while they are without a body, they fly about undisturbed by diseases, and cold, and hunger; since *it is* the body *that* rather labors under these maladies, (as well as from death,) and the soul suffers all evils from contact with it. But, nevertheless, let it be as advantageous as you please for these *souls* to make a body which they may enter, there seems, however, to be no means by which they may make it. *It is fair,* therefore, *to conclude that* souls do not make for themselves bodies and limbs. Nor yet is there a possibility, *as it appears,* that they can be infused into bodies perfectly-formed; for neither *under that supposition* can they be exactly fitted together; nor will their mutual-motions be carried on with sympathy.

Furthermore, why does violent rage attend upon the sullen breed of lions, and craft upon *that of* foxes; and why is flight communicated to stags from their sires, and *why* does hereditary fear add speed to their limbs? And as to other *qualities* of this sort, why do they all generate, in the body and temperament, from the earliest period of life, if *it be* not because a certain disposition of mind grows up together with each body from its own seed and stock? But if the soul were immortal, and were accustomed, *as the Pythagoreans think,* to change bodies, *surely* animals would *gradually alter, and* grow of mixed dispositions; the dog of Hyrcanian breed would often flee from the assault of the horned stag; the hawk, flying through the air of heaven, would tremble at the approach of the dove; men would lose their understanding, and the savage tribes of wild beasts become reasonable.

For that which *some* assert, *namely,* that an immortal soul is altered by a change of body, is advanced upon false reasoning; as that which is altered, loses its consistence, *and* therefore perishes; since the

parts are transposed, and depart from their *original* arrangement; wherefore *the parts of the soul, under this hypothesis,* must also be subject to dissolution throughout the limbs; so that finally they may all perish together with the body.

But if they shall say that the souls of men always migrate into human bodies, I shall nevertheless ask, why a soul, from being wise *in a wise body,* should possibly become foolish *in the body of a fool;* why no child is *found* discreet, *or informed with a soul of mature understanding,* and why no foal of a mare is as skilful *in his paces* as the horse of full vigour? *Why, I say, is this,* if it be not because a certain temper of mind grows up with each body from its own seed and stock? These *philosophers,* forsooth, will take refuge in the assertion, that the mind becomes tender in a tender body; but if this be the case, you must admit that the soul is mortal, since, being so exceedingly changed in its *new* body, it loses its former vitality and powers.

Or in what way will the vigour of a soul, strengthened in concert with each *particular* body, be able to reach *with it* the desired flower of mature age, unless it shall be joined to it in its first origin? Or with what motive does *the* soul go forth from limbs that are grown old? Does it fear to remain imprisoned in a decaying-carcass, *lest it should decay with it?* Or *is it afraid* lest its tenement, shaken with a long course of life, should *fall and* overwhelm it? But to that which is immortal, there are no *such* dangers.

Moreover, *to imagine* that souls stand ready at the amorous intercourses, or parturitions, of beasts, *to enter into the young,* seems exceedingly ridiculous. *It appears too absurd to suppose* that immortal *beings,* in infinite numbers, should wait for mortal bodies, and contend emulously among themselves which shall be first and foremost to enter; —unless perchance *you suppose that* agreements have been made among the souls, that the first which shall have come flying *to the body,* shall have first ingress, and that they may *thus* have no contest in strength with one another.

Again, neither can a tree exist in the sky, nor clouds in the deep sea; nor *can* fish live in the fields; nor blood be in wood, nor liquid in stones. It is fixed and arranged where every thing may grow and subsist; thus the nature *or substance* of the mind can not spring up alone without the body, or exist apart from the nerves and the blood. Whereas if this could *happen,* the power of the mind might *at times* rather arise in the head or the shoulders, or the bottom of the heels, and might *rather* accustom itself to grow in any place, than to remain in the

same man and in the same receptacle. But since it seems fixed and appointed also in our own body, where the soul and the mind may subsist and grow up by themselves, it is so much the more to be denied that they can endure and be produced out of the entire body. For which reason, when the body has perished, you must necessarily admit that the soul, which is diffused throughout the body, has perished with it.

Besides, to join the mortal to the immortal, and to suppose that they can sympathize together, and perform mutual *operations,* is to think absurdly; for what can be conceived more at variance *with reason,* or more inconsistent and irreconcilable in itself, than that that which is mortal, joined to that which is imperishable and eternal, should *submit to* endure violent storms *and troubles* in combination *with it?*

Further, whatsoever *bodies* remain eternal, must either, as being of a solid consistence, repel blows, and suffer nothing to penetrate them, that can disunite their compact parts within, (*such* as are primary-particles of matter, the nature of which we have shown above;) or they must be able to endure throughout all time, because they are free from blows or *unsusceptible of them;* (as a vacuum, which remains intangible, and suffers nothing from a stroke;) or *they must be indestructible for this reason,* that there is no sufficiency of space around about them into which their constituent substances may, as it were, separate and be dissolved; (as the entire universe is eternal, *inasmuch as* there is neither any space without it into which *its parts* may disperse; nor are there any bodies which may fall upon it, and break it to pieces by a violent concussion:) but, as I have shown, neither is the nature of the soul of a solid substance, since with *all compound* bodies vacuum is mixed; nor is it like a vacuum *itself;* nor, again, are bodies wanting, which, rising fortuitously from the infinite of *things,* may overturn this frame of the mind with a violent tempest, or bring *upon it* some other kind of disaster and danger; nor, moreover, is vastness and profundity of space wanting, into which the substance of the soul may be dispersed, or may *otherwise* perish *and be overwhelmed* by any other kind of force. The gate of death, therefore, is not shut against the mind *and soul.*

But if perchance *the soul, in the opinion of any,* is to be accounted immortal the more on this account, that it is kept fortified by things preservative of life; or because those that do approach, being by some means diverted, retreat before we can perceive what injury they inflict; the notion *of those who think thus* is evidently far removed from just reasoning. For besides that it sickens from diseases of the body, there

often happens something to trouble it concerning future events, and keep it disquieted in fear, and harass it with cares; while *remorse for* faults, from past acts wickedly *and foolishly* committed, *torments and* distresses it. Join *to these afflictions* the insanity peculiar to the mind, and the oblivion of *all* things; *and* add, *besides,* that it is *often* sunk into the black waves of lethargy.

Death, therefore, is nothing, nor at all concerns us, since the nature *or substance* of the soul is *to be* accounted mortal. And as, in past time, we felt anxiety, when the Carthaginians gathered on all sides to fight *with our forefathers, and* when all things under the lofty air of heaven, shaken with the dismaying tumult of war, trembled with dread; and *men* were uncertain to the sway of which *power* every thing human, by land and by sea, was to fall; so, when we shall cease to be, when there shall be a separation of the body and soul of which we are conjointly composed, it is certain that to us, who shall not then exist, nothing will by any possibility happen, or excite our feeling, not even if the earth shall be mingled with the sea, and the sea with the heaven.

And even if the substance of the mind, and the powers of the soul, after they have been separated from our body, *still* retain their faculties, it is nothing to us, who subsist *only as* being conjointly constituted by an arrangement and union of body and soul together. Nor, if time should collect our material atoms after death, and restore them again as they are now placed, and the light of life should be given back to us, would it yet at all concern us that this were done, when the recollection of our existence has once been interrupted. And it is now of no imporance to us, in regard to ourselves, what we were before; nor does any solicitude affect us in reference to those whom a new age shall produce from our matter, *should it again be brought together as it is at present.* For when you consider the whole past space of indefinite time, and *reflect* how various are the motions of matter, you may easily believe that *our* atoms have often been placed in the same order as *that in which* they now are. Yet we cannot revive that *time* in our memory; for a pause of life has been thrown between, and all the motions of *our atoms* have wandered hither and thither, far away from sentient-movements. For he, *among the men now living,* to whom misery and pain are to happen *after his death,* must himself exist *again, in his own identity,* at that very time on which the evil *which he is to suffer* may have power to fall; but since death, *which interrupts all consciousness, and prevents all memory of the past,* precludes *the possibility* of this; and *since the circumstance of* having previously existed, prohibits him

who lived before, and with whom these calamities *which we suffer* might be associated, from existing *a second time, (with any recollection of his other life,) as* the same *combination of* atoms of which we now consist, we may be assured that in death there is nothing to be dreaded by us: that he who does not exist can not become miserable; and that it makes not the least difference *to a man,* when immortal death has ended his mortal life, that he was ever born at all.

TRANSLATION OF JOHN SELBY WATSON.

GRAECO-ROMAN SCIENCE

THE ATTEMPTS to solve the great problems attacked by philosophy led to investigations that in the course of centuries grew to take rank as separate studies. Early Greek science, as may be seen from the fragments given in the second volume, made many guesses but did not prove them: later Greek and Graeco-Roman science gathered many facts, but, outside of mathematics, had evolved no principles from them before it was throttled by the prejudice of the early Christian Church. This fact, that ancient science, except mathematics, consisted mostly of either unproven guesses or uncorrelated data, makes it impossible and unnecessary in this place to do more than to outline the ideas of the times.

Among the early Greeks, Thales, who lived in the last of the seventh century B. C., is reported to have noted the solstices and equinoxes, i. e., the longest and shortest days, and the times when the day and night are equal. He probably foretold an eclipse by using the Babylonian cycle of 223 months, during which period eclipses repeat themselves at regular intervals. Anaximander, in the first half of the sixth century, is supposed to have invented a sun dial that showed the time of day by

the position of a shadow on a plate. He is also reported to have made a map of the world as he knew it. Anaxagoras, born at the end of the fifth century, discovered that either the sun or the moon may shut off our view of the other; and that the planets move while the other stars do not. He thought the sun to be a fiery rock, say as large as the Peloponnesus. Eudoxos, born about 406 B. C., marked some of the apparent movements of the planets in the heavens. The Pythagoreans believed that the earth is round and revolves about the unseen fire which they thought to be the center of the universe. Leukippos and Demokritos developed their remarkable atomic theory, the most important hypothesis advanced by the Greeks, but, though it was supported at the time with striking arguments, the ancient world refused to accept it, and it remained nothing more than a theory until the present century. Aristotle and his school made great collections in zoology and did considerable work in classifying animals in accordance with the nature and use of their organs. Fragments from these early thinkers have already been included in the previous volume.

In the applied science of medicine, the first beginning was made by the Greek Hippocrates, born of a family of priests of Aesculapius, the god of health, in the first part of the fifth century B. C. The Greeks had previously laid disease to the anger of the gods: readers of the Iliad will remember that it was supposed to have been Apollo that sent the deadly pestilence upon the Greeks before Troy. Hippocrates was the first to break away from the idea that disease is a divine punishment. He maintained that diseases spring out of natural causes, that they can be studied, and that the body can be assisted in throwing them off. Here is room for a science, and we have extant many works of Hippocrates in which he traces the course that diseases take. Some of his important aphorisms are the following, translated by C. J. Sprengell:

Sec. I. 1. Life is short, art is long, occasion sudden, experiment dangerous, judgment difficult. Neither is it sufficient that the physician do his office, unless the patient and his attendants do their duty and external conditions are well ordered.

6. In extreme diseases extreme and searching remedies are best.

13. Old men easily endure fasting, middle-aged men not so well, young men still less easily, and children worst of all, especially those who are of a more lively spirit.

14. Those bodies that grow have much natural heat, therefore they require good store of food or else the body consumes, but old men have little heat in them, therefore they require but little food, for much

nourishment extinguishes that heat. And this is the reason that old men do not have very acute fevers, because their bodies are cold.

20. Those things that are or have been justly determined by nature ought not to be moved or altered, either by purging or other irritating medicine, but should be let alone.

Sec. II. 3. Sleeping or walking, if either be immoderate, is evil.

4. Neither satiety nor hunger nor any other thing which exceeds the natural bounds can be good or healthful.

24. The fourth day is the index of the seventh, the eighth of the beginning of the week following. But the eleventh day is to be considered, for it is the fourth day of another seventh. And again the seventeenth day is to be considered, being the fourth from the fourteenth and the seventh from the eleventh.

51. It is dangerous much and suddenly either to empty, heat, fill, or cool, or by any other means to stir the body, for whatever is beyond moderation is an enemy to nature; but that is safe which is done little by little, and especially when a change is to be made from one thing to another.

Sec. III. 1. Changes of seasons are most effectual causes of diseases, and so are alterations of cold and heat within the seasons, and other things proportionately in the same manner.

Sec IV. 37. Cold sweats in acute fevers signify death, but in more mild diseases they mean the continuance of the fever.

38. In what part of the body the sweat is there is the disease.

39. And in what part of the body there is unusual heat or cold there the disease is seated.

Sec. VII. 65. The same meat administered to a person sick of a fever as to one in health will strengthen the healthy one, but will increase the malady of the sick one.

Sec. VIII. 6. Where medicines will not cure incision must be made; if incisions fail, we must resort to cauterizing; but if that will not do we may judge the malady incurable.

18. The finishing stroke of death is when the vital heat ascends above the diaphragm and all the moisture is dried up. But when the lungs and heart have lost their moisture, the heat being all collected together in the most mortal places, the vital fire by which the whole structure was built up and held together is suddenly exhaled. Then the soul leaving this earthly building makes its exit partly through the flesh and partly through the openings in the head, by which we live; and thus

it surrenders up this cold earthly statue, together with the heat, blood, tissues, and flesh.

Among the latter Greek scientists, Aristarchos made a shrewd guess that the earth goes around the sun, but his theory remained only an unaccepted guess.

Euclid, born 300 B. C., one of the world's great mathematicians, analyzed our ideas of space and developed a geometry that differs but little from that used in high schools to-day. For this reason it need not be illustrated here. Thus the Greeks put this science on a firm basis.

Archimedes, who was born in Sicily about 287 B. C., proved, among many things, that the contents of a sphere is two-thirds of the circumscribed cylinder. He discovered the principle of the lever, that weights which are inversely proportional to their distances from a fulcrum will balance, and invented a system of compound pulleys. He found, too, that a body in water displaces its own bulk of the fluid, and applied the principle to prove that there was not enough gold and too much silver in Hiero's crown. He also invented a screw for the pumping up of water, and the story will not down that he used concave mirrors to set fire to the Roman ships during the siege of Syracuse. His results were not only tangible but proven and, few as they may seem in the bare statement of them, make him one of the world's greatest thinkers. The discovery of even one natural law is enough to give a man the right to eternal fame.

The following are some of his theorems:

The Sphere and the Cylinder

Archimedes to Dositheus, greeting:

Formerly I sent to you the studies which I had finished up to that time together with the demonstrations, which were to show that a segment bounded by a straight line and a conic section is four-thirds of the triangle on the same base as the segment and of the same height. Since that time certain propositions as yet undemonstrated have come to my mind, and I have undertaken to work them out. These are: 1. The surface of any sphere is four times the surface of its greatest circle; 2. The surface of any segment of a sphere is equal to the surface of that circle the radius of which equals the straight line drawn from the vertex of the segment to the circumference of the circle which serves as the base of the segment; 3. That a cylinder with a base equal to the great circle of a given sphere, and a height equal to the diameter of the

sphere contains half the volume of that sphere and its surface is equal to half the surface of that sphere.

These propositions, of course, were always true of these figures, but they were hidden to the men who studied geometry before my time. Therefore, since I have discovered that these things hold true of these figures I do not fear to place them alongside my own previous results and the most thoroughly established theorems of Eudoxus, such as: any pyramid is equal to one-third of the prism of the same base and height, and any cone is equal to one-third of the cylinder of the same base and height.

On Floating Bodies

BOOK I.

First Postulate. Supposed that a fluid is of such a character that when its component parts are undisturbed and in immediate contact the part which is subject to the less pressure is moved by the part which is subject to the greater pressure; and that each part is forced in a perpendicular direction by the part above, if the fluid is compressed.

Proposition 1. If a surface is always cut by a plane passing through a given point, and if the section thus formed is always a circle whose center is the given point, the surface is that of a sphere.

Proposition 2. The surface of any still fluid is always the surface of a sphere whose center is the center of the earth.

Proposition 3. Those solids which are of the same weight as a fluid in proportion to their size, when sunk in that fluid will be submerged in such a way that they neither extend above that fluid nor sink below it.

Proposition 4. A solid which is lighter than a given fluid will not sink below the surface when placed in that fluid, but part of it will extend above the surface.

Proposition 5. A solid lighter than a given fluid will, when placed in that fluid, be so far submerged that the weight of the solid will be equal to the weight of the fluid displaced.

Proposition 6. If a solid lighter than a given fluid be forced into that fluid the solid will be driven upwards again by a force which is equal to the difference between the weight of the fluid and the weight of the amount of fluid displaced.

BOOK II.

Proposition 1. If a solid lighter than a given fluid rest in that fluid the weight of the solid to the weight of an equal volume of the

fluid will be as the part of the solid which is submerged is to the whole solid.

Erastosthenes, born about 276 B. C., was a geographer. He acted on the theory that the earth is round, and realizing that at the equator the day and night are equal in length, first mapped out a parallel of latitude by pointing off the places whose longest day was fourteen and a half hours. Drawing a line perpendicular to this parallel, he mapped out a meridian of longitude, running through Alexandria and Syene. He found that at the time of the summer solstice the sun was exactly overhead at Syene, but a little over seven degrees toward the south of the heavens at the same time at Alexandria. Hence he argued that the distance from Alexandria to Syene must be a little more than 7/360, or about one-fiftieth of the circumference of the globe. He found this distance to be somewhere near 5,000 stadia and thus made the circumference of the earth about 250,000 stadia. The stadium was equivalent to about 600 English feet, and his total estimate to about 28,700 miles, which is very close for the first rough solution.

Hipparchos, born about 160 B. C., was one of the greatest of the ancient astronomers. He catalogued a thousand of the stars, and calculated the time of the eclipses of the sun and moon. He also discovered that the sun crosses the equator each year a little further to the west. This is called the precession of the equinoxes.

Ptolemy (70 A. D.-150 A. D.) was also an astronomer. He mapped out some of the apparent motions of the planets, noted some of the inequalities in the motions of the moon, and advanced the theory that the apparent motions of the sun, moon, and planets could be accounted for by supposing them, while going round the earth, to have a small circular motion also, the result of the two motions being that they would cut the same sort of a figure as a given point on the edge of a spinning top would mark out if the top should itself spin round a center which represents the earth. The theory came so near accounting for the apparent motions of the heavenly bodies that it was very difficult to overthrow. The notion that the earth was the center of the universe was adopted by the Church and the whole question foolishly mixed up with religion, so that a great deal of persecution grew out of it, but this was the fault not of Ptolemy, but of dogmatic theology.

After Hippocrates, the next to make any decided advance in the study of the human body were Erasistratus and Herophilus. The work of Hippocrates had been mostly in tracing the course of the disease. They put more emphasis on the study of the body. Their work laid the

first foundation of the science of anatomy. They made many observations upon the body's structure, traced the nerves, described the brain, examined the muscles and pulse, but failed to correlate the details they noted into any dynamic physiological theory.

The greatest of the Graeco-Romans in medicine was Galen. He was born in Pergamus about 131 A. D. He first visited Rome in 164 A. D. Marcus Aurelius made him the medical guardian of Commodus. Besides being a physician, he was a philosopher and logician. He extended the study of anatomy, made a careful study of the bones, distinguished the motor and sensory nerves, showed that the veins contain blood, classified diseases, and in brief brought medicine to a height from which it greatly declined during the dark ages, except perhaps among the Arabians, until the time of Versalius. The difficulty in quoting from his work is the one that is met in exemplifying the beginnings of any study that has not advanced far enough to understand and explain the workings of nature in its field. A descriptive enumeration of details is the inevitable concomitant of investigation into a new subject but a science can hardly be said to have been established before some genius has discovered some of its principles.

Characteristic fragments of his work are the following:—

There are in all three branches of the study of medicine, in this order. The first is the study of the result by analysis; the second is the combining of the facts found by analysis; the third is the determining of the definition, which branch we are now to consider in this work. This branch of the science may be called not only the determining of the definition, but just as well the explication, as some would term it, or the resolution, as some desire, or the explanation, or according to still others, the exposition. Now some of the Herophilii, such as Heraclides of Erythrea, have attempted to teach this doctrine. These Herophilii and certain followers of Erasistratus and of Athenaeus, the Attalian, studied also the doctrine of combination. But no one before us has described the method which begins with the study of the results, from which every art must take its beginning methodically; this we have considered in a former work.

Chap. 1. Medicine is the science of the healthy, the unhealthy, and the indeterminate, or neutral. It is a matter of indifference whether one calls the second the ill, or the unhealthy. It is better to give the name of the science in common than in technical terms. But the healthy, the unhealthy, the neutral, are each of them subject to a three-fold

division: first, as to the body; second, as to the cause; and third, as to the sign. The body which contains the health, the cause which affects or preserves the health, and the sign or symptom which marks the condition of the health, all these are called by the Greeks *hygienia.* In the same way they speak of the bodies susceptible to disease, of causes effecting and aiding diseases, and of signs indicating diseases, as pathological. Likewise they speak of neutral bodies, causes, and signs. And according to the first division the science of medicine is called the science of the causes of health, according to the second, of the causes of ill-health, and according to the third of the causes of neutral conditions.

Chap. 2. The healthy body is simply that which is rightly composed from its very birth in the simple and elementary parts of its structure, and is symmetrical in the organs composed of these elements. From another point of view, that is also a healthy body which is in sound condition at the time of speaking.

It will be seen from the above that the Greeks noted many facts in astronomy, but were unable to settle upon the correct conception of the universe to account for them; that they developed ordinary geometry almost as far as possible without the aid of the analytic method of Descartes or the calculus of Leibnitz or Newton; that Archimedes made a good beginning in applying mathematics to physics; that in medicine they realized that the causes of diseases are natural and not divine, and brought together many truths concerning the human body without having a correct idea of its workings; and that they developed the atomic theory in many important details, but could not force its acceptance by proof. This means that they knew nothing more than isolated facts in astronomy; physics, including electricity, light, sound, heat, and mechanics (except the theorems of Archimedes), chemistry, geology, botany, biology, physiology, or psychology.

In the preceding volume we showed the scientific ideas of the early Greek thinkers; in this volume we illustrate the ideas of the time in medicine; and the work of Archimedes; give Lucretius's exposition of the atomic theory; and exemplify the scientific conceptions of the period in the encyclopedia of Pliny the Elder.

PLINY THE ELDER

PLINY THE ELDER was born in Cisalpine Gaul, 23 A. D. When still a youth he moved to Rome, and studied under the grammarian Apion. From his twenty-third to his twenty-ninth year he served in the army, mostly in Germany. Nero made him procurator in Nearer Spain, and later he enjoyed the intimate friendship of Vespasian on account of his history of the "Wars in Germany."

He was of the most energetic habits, beginning study in winter at midnight, attending Vespasian before daylight, looking to the duties of his office in the morning, after a light luncheon making notes from some book a slave read to him, then, after a cold bath and a nap, taking up his work again until the evening meal. He always rode in a litter because while riding in this way he could still be reading. He wrote many books but the only ones that have come down to us are those of his "Natural History," really an encyclopedia of the knowledge of the time. As it is a compendium we can not judge from it of his ability as an original thinker; we know, however, that he lost his life in 79, A. D., while attempting to examine more closely the eruption of Vesuvius.

We give below parts of his encyclopedia showing important conceptions of Graeco-Roman science.

SCIENTIFIC IDEAS OF THE TIMES

AN ACCOUNT OF THE WORLD AND THE ELEMENTS

CHAP. I. WHETHER THE WORLD BE FINITE, AND WHETHER THERE BE MORE THAN ONE WORLD

THE WORLD, and whatever that be which we otherwise call the heavens, by the vault of which all things are enclosed, we must conceive to be a deity, to be eternal, without bounds, neither created, nor subject, at any time, to destruction. To inquire what is beyond it is no concern of man, nor can the human mind form any conjecture respecting it. It is sacred, eternal, and without bounds, all in all; indeed including everything in itself; finite, yet like what is infinite; the most certain of all things, yet like what is uncertain, externally and internally embracing all things in itself; it is the work of nature, and itself constitutes nature.

It is madness to harass the mind, as some have done, with attempts to measure the world, and to publish these attempts; or, like others, to argue from what they have made out, that there are innumerable other worlds, and that we must believe there to be so many other natures, or that, if only one nature produce the whole, there will be so many suns and so many moons, and that each of them will have immense trains of other heavenly bodies. As if the same question would not recur at every step of our inquiry, anxious as we must be to arrive at some termination; or, as if this infinity, which we ascribe to nature, the former of all things, cannot be more easily comprehended by one single formation, especially when that is so extensive. It is madness, perfect madness, to go out of this world and to search for what is beyond it, as if one who is ignorant of his own dimensions could ascertain the measure of any thing else, or as if the human mind could see what the world itself cannot contain.

CHAP. 2. OF THE FORM OF THE WORLD

That it has the form of a perfect globe we learn from the name which has been uniformly given to it, as well as from numerous natural

arguments. For not only does a figure of this kind return everywhere into itself and sustain itself, also including itself, requiring no adjustments, not sensible of either end or beginning in any of its parts, and is best fitted for that motion, with which, as will appear hereafter, it is continually turning round; but still more, because we perceive it by the evidence of the sight, to be, in every part, convex and central, which could not be the case were it of any other figure.

CHAP. 3. OF ITS NATURE; WHENCE THE NAME IS DERIVED

The rising and the setting of the sun clearly prove, that this globe is carried round in the space of twenty-four hours, in an eternal and never-ceasing circuit, and with incredible swiftness. I am not able to say, whether the sound caused by the whirling about of so great a mass be excessive, and, therefore, far beyond what our ears can perceive, nor, indeed, whether the resounding of so many stars, all carried along at the same time and revolving in their orbits, may not produce a kind of delightful harmony of incredible sweetness. To us, who are in the interior, the world appears to glide silently along, both by day and by night.

Various circumstances in nature prove to us, that there are impressed on the heavens innumerable figures of animals and of all kinds of objects, and that its surface is not perfectly polished like the eggs of birds, as some celebrated authors assert. For we find that the seeds of all bodies fall down from it, principally into the ocean, and, being mixed together, that a variety of monstrous forms are in this way frequently produced. And, indeed, this is evident to the eye; for, in one part, we have the figure of a wain, in another of a bear, of a bull, and of a letter; while, in the middle of them, over our heads, there is a white circle.

With respect to the name of it, I am influenced by the unanimous opinions of all nations. For what the Greeks, from its being ornamented, have termed *kosmos,* we, from its perfect and complete elegance, have termed *mundus.* The name *cælum,* no doubt, refers to its being engraven, as it were, with the stars, as Varro suggests. In confirmation of this idea we may adduce the Zodiac, in which are twelve figures of animals; through them it is that the sun has continued its course for so many ages.

CHAP. 4. OF THE ELEMENTS AND THE PLANETS

I do not find that any one has doubted that there are four elements. The highest of these is supposed to be fire, and hence proceed the eyes

of so many glittering stars. The next is that spirit, which both the Greeks and ourselves call by the same name, air. It is by the force of this vital principle, pervading all things and mingling with all, that the earth, together with the fourth element, water, is balanced in the middle of space. These are mutually bound together, the lighter being restrained by the heavier, so that they cannot fly off; while, on the contrary, from the lighter tending upwards, the heavier are so suspended, that they cannot fall down. Thus, by an equal tendency in an opposite direction, each of them remains in its appropriate place, bound together by the never-ceasing revolution of the world, which always turning on itself, the earth falls to the lowest part and is in the middle of the whole, while it remains suspended in the center, and, as it were, balancing this center in which it is suspended. So that it alone remains immovable, whilst all things revolve round it, being connected with every other part, whilst they all rest upon it.

Between this body and the heavens there are suspended, in this aërial spirit, seven stars, separated by determinate spaces, which, on accounts of their motion, we call wandering, although, in reality, none are less so. The sun is carried along in the midst of these, a body of great size and power, the ruler, not only of the seasons and of the different climates, but also of the stars themselves and of the heavens. When we consider his operations, we must regard him as the life, or rather the mind of the universe, the chief regulator and the god of nature; he also lends his light to the other stars. He is most illustrious and excellent, beholding all things and hearing all things, which, I perceive, is ascribed to him exclusively by the prince of poets, Homer.

CHAP. 5. OF GOD

I consider it, therefore, an indication of human weakness to inquire into the figure and form of God. For whatever God be, if there be any other god, and wherever he exists, he is all sense, all sight, all hearing, all life, all mind, and all within himself. To believe that there are a number of gods, derived from the virtues, and vices of man, as Chastity, Concord, Understanding, Hope, Honor, Clemency, and Fidelity; or, according to the opinion of Democritus, that there are only two, Punishment and Reward, indicates still greater folly. Human nature, weak and frail as it is, mindful of its own infirmity, has made these divisions, so that every one might have recourse to that which he supposed himself to stand more particularly in need of. Hence we find different names employed by different nations; the inferior deities are arranged

in classes, and diseases and plagues are deified, in consequence of our anxious wish to propitiate them. It was from this cause that a temple was dedicated to Fever, at the public expense, on the Palatine Hill, and to Orbona, near the temple of the Lares, and that an altar was elected to Good Fortune on the Esquiline. Hence, we may understand how it comes to pass that there is a greater population of the Celestials than of human beings, since each individual makes a separate god for himself, adopting his own Juno and his own Genius. And there are nations who make gods of certain animals, and even certain obscene things, which are not to be spoken of, swearing by stinking meats and such like. To suppose that marriages are contracted between the gods, and that, during so long a period, there should have been no issue from them, that some of them should be old and always grey-headed and others young and like children, some of a dark complexion, winged, lame, produced from eggs, living and dying on alternate days, is sufficiently puerile and foolish. But it is the height of impudence to imagine, that adultery takes place between them, that they have contests and quarrels, and that there are gods of theft and of various crimes. To assist man is to be a god; this is the path to eternal glory. This is the path which the Roman nobles formerly pursued, and this is the path which is now pursued by the greatest ruler of our age, Vespasian Augustus, he who has come to the relief of an exhausted empire, as well as by his sons. This was the ancient mode of remunerating those who deserved it, to regard them as gods. For the names of all the gods, as well as of the stars that I have mentioned above, have been derived from their services to mankind. And with respect to Jupiter and Mercury, and the rest of the celestial nomenclature, who does not admit that they have reference to certain natural phænomena?

But it is ridiculous to suppose, that the great head of all things, whatever it be, pays any regard to human affairs. Can we believe, or rather can there be any doubt, that it is not polluted by such a disagreeable and complicated office? It is not easy to determine which opinion would be most for the advantage of mankind, since we observe some who have no respect for the gods, and others who carry it to a scandalous excess. They are slaves to foreign ceremonies; they carry on their fingers the gods and the monsters whom they worship; they condemn and they lay great stress on certain kinds of food; they impose on themselves dreadful ordinances, not even sleeping quietly. They do not marry or adopt children, or indeed do anything else, without the sanction of their sacred rites. There are others, on the contrary, who

will cheat in the very capitol, and will forswear themselves even by Jupiter Tonans, and while these thrive in their crimes, the others torment themselves with their superstitions to no purpose.

Among these discordant opinions mankind have discovered for themselves a kind of intermediate deity, by which our scepticism concerning God is still increased. For all over the world, in all places, and at all times, Fortune is the only god whom every one invokes; she alone is spoken of, she alone is accused and is supposed to be guilty; she alone is in our thoughts, is praised and blamed, and is loaded with reproaches; wavering as she is, conceived by the generality of mankind to be blind, wandering, inconstant, uncertain, variable, and often favoring the unworthy. To her are referred all our losses and all our gains, and in casting up the accounts of mortals she alone balances the two pages of our sheet. We are so much in the power of chance, that change itself is considered as a god, and the existence of God becomes doubtful.

But there are others who reject this principle and assign events to the influence of the stars, and to the laws of our nativity; they suppose that God, once for all, issues his decrees and never afterwards interferes. This opinion begins to gain ground, and both the learned and the unlearned vulgar are falling into it. Hence we have the admonitions of thunder, the warnings of oracles, the predictions of sooth-sayers, and things too trifling to be mentioned, as sneezing and stumbling with the feet reckoned among omens. The late Emperor Augustus relates, that he put the left shoe on the wrong foot, the day when he was near being assaulted by his soldiers. And such things as these so embarrass improvident mortals, that among all of them this alone is certain, that there is nothing certain, and that there is nothing more proud or more wretched than man. For other animals have no care but to provide for their subsistence, for which the spontaneous kindness of nature is all-sufficient; and this one circumstance renders their lot more especially preferable, that they never think about glory, or money, or ambition, and, above all, that they never reflect on death.

The belief, however, that on these points the gods superintend human affairs is useful to us, as well as that the punishment of crimes, although sometimes tardy, from the deity being occupied with such a mass of business, is never entirely remitted, and that the human race was not made the next in rank to himself, in order that they might be degraded like brutes. And, indeed, this constitutes the great comfort in this imperfect state of man, that even the deity cannot do everything. For he cannot procure death for himself, even if he wished it, which, so

numerous are the evils of life, has been granted to man as our chief good. Nor can he make mortals immortal, or recall to life those who are dead; nor can he effect, that he who has once lived shall not have lived, or that he who has enjoyed honors shall not have enjoyed them; nor has he any influence over past events but to cause them to be forgotten. And, if we illustrate the nature of our connexion with God by a less serious argument, he cannot make twice ten not to be twenty, and many other things of this kind. By these considerations the power of nature is clearly proved, and is shown to be what we call God. It is not foreign to the subject to have digressed into these matters, familiar as they are to every one, from the continual discussions that take place respecting God.

CHAP. 6. OF THE NATURE OF THE STARS; OF THE MOTION OF THE PLANETS

Let us return from this digression to the other parts of nature. The stars which are described as fixed in the heavens, are not, as the vulgar suppose, attached each of them to different individuals, the brighter to the rich, those that are less so to the poor, and the dim to the aged, shining according to the lot of the individual, and separately assigned to mortals; for they have neither come into existence, nor do they perish in connexion with particular persons, nor does a falling star indicate that any one is dead. We are not so closely connected with the heavens as that the shining of the stars is affected by our death. When they are supposed to shoot or fall, they throw out, by the force of their fire, as if from an excess of nutriment, the superabundance of the humor which they have absorbed, as we observe to take place from the oil in our lamps, when they are burning. The nature of the celestial bodies is eternal, being interwoven, as it were, with the world, and, by this union, rendering it solid; but they exert their most powerful influence on the earth. This, notwithstanding its subtilty, may be known by the clearness and the magnitude of the effect, as we shall point out in the proper place. The account of the circles of the heavens will be better understood when we come to speak of the earth, since they have all a reference to it; except what has been discovered respecting the Zodiac, which I shall now detail.

Anaximander, the Milesian, in the 58th olympiad, is said to have been the first who understood its obliquity, and thus opened the road to a correct knowledge of the subject. Afterwards Cleostratus made the signs in it, first marking those of Aries and Sagittarius; Atlas had

formed the sphere long before this time. But now, leaving the further consideration of this subject, we must treat of the bodies that are situated between the earth and the heavens.

It is certain that the star called Saturn is the highest, and therefore appears the smallest, that he passes through the largest circuit, and that he is at least thirty years in completing it. The course of all the planets, and among others of the Sun, and the Moon, is in the contrary direction to that of the heavens, that is towards the left, while the heavens are rapidly carried about to the right. And although, by the stars constantly revolving with immense velocity, they are raised up, and hurried on to the part where they set, yet they are all forced, by a motion of their own, in an opposite direction; and this is so ordered, lest the air, being always moved in the same direction, by the constant whirling of the heavens, should accumulate into one mass, whereas now it is divided and separated and beaten into small pieces, by the opposite motion of the different stars. Saturn is a star of a cold and rigid nature, while the orbit of Jupiter is much lower, and is carried round in twelve years. The next star, Mars, which some persons call Hercules, is of a fiery and burning nature, and from its nearness to the sun is carried round in little less than two years. In consequence of the excessive heat of this star and the rigidity of Saturn, Jupiter, which is interposed between the two, is tempered by both of them, and is thus rendered salutary. The path of the Sun consists of 360 degrees; but, in order that the shadow may return to the same point of the dial, we are obliged to add, in each year, five days and the fourth part of a day. On this account an intercalary day is given to every fifth year, that the period of the seasons may agree with that of the Sun.

Below the Sun revolves the great star called Venus, wandering with an alternate motion, and, even in its surnames, rivalling the Sun and the Moon. For when it precedes the day and rises in the morning, it receives the name of Lucifer, as if it were another sun, hastening on the day. On the contrary, when it shines in the west, it is named Vesper, as prolonging the light, and performing the office of the moon. Pythagoras, the Samian, was the first who discovered its nature, about the 62nd olympiad, in the 222nd year of the City. It excels all the other stars in size, and its brilliancy is so considerable, that it is the only star which produces a shadow by its rays. There has, consequently, been great interest made for its name; some have called it the star of Juno, other of Iris, and others of the Mother of the Gods. By its influence everything in the earth is generated. For, as it rises in either direc-

tion, it sprinkles everything with its genial dew, and not only matures the productions of the earth, but stimulates all living things. It completes the circuit of the zodiac in 348 days, never receding from the sun more than 46 degrees, according to Timæus.

Similarly circumstanced, but by no means equal in size and in power, next to it, is the star Mercury, by some called Apollo; it is carried in a lower orbit, and moves in a course which is quicker by nine days, shining sometimes before the rising of the sun, and at other times after its setting, but never going farther from it than 23 degrees, as we learn from Timæus and Sosigenes. The nature of these two stars is peculiar, and is not the same with those mentioned above, for those are seen to recede from the sun through one-third or one-fourth part of the heavens, and are often seen opposite to it. They have also other larger circuits, in which they make their complete revolutions, as will be described in the account of the great year.

But the Moon, which is the last of the stars, and the one the most connected with the earth, the remedy provided by nature for darkness, excels all the others in its admirable qualities. By the variety of appearances which it assumes, it puzzles the observers, mortified that they should be the most ignorant concerning that star which is the nearest to them. She is always either waxing or waning; sometimes her disc is curved into horns, sometimes it is divided into two equal portions, and at other times it is swelled out into a full orb; sometimes she appears spotted and suddenly becomes very bright; she appears very large with her full orb and suddenly becomes invisible; now continuing during all the night, now rising late, and now aiding the light of the sun during a part of the day; becoming eclipsed and yet being visible while she is eclipsed; concealing herself at the end of the month and yet not supposed to be eclipsed. Sometimes she is low down, sometimes she is high up, and that not according to one uniform course, being at one time raised up to the heavens, at other times almost contiguous to the mountains; now elevated in the north, now depressed in the south; all which circumstances having been noticed by Endymion, a report was spread about, that he was in love with the moon. We are not indeed sufficiently grateful to those, who, with so much labor and care, have enlightened us with this light; while, so diseased is the human mind, that we take pleasure in writing the annals of blood and slaughter, in order that the crimes of men may be made known to those who are ignorant of the constitution of the world itself.

Being nearest to the axis, and therefore having the smallest orbit,

the Moon passes it twenty-seven days and the one-third part of a day, through the same space for which Saturn, the highest of the planets, as was stated above, requires thirty years. After remaining for two days in conjunction with the sun, on the thirtieth day she again very slowly emerges to pursue her accustomed course. I know not whether she ought not to be considered as our instructress in everything that can be known respecting the heavens; as that the year is divided into the twelve divisions of the months, since she follows the sun for the same number of times, until he returns to his starting point; and that her brightness, as well as that of the other stars, is regulated by that of the sun, if indeed they all of them shine by light borrowed from him, such as we see floating about, when it is reflected from the surface of water. On this account it is that she dissolves so much moisture, by a gentle and less perfect force, and adds to the quantity of that which the rays of the sun consume. On this account she appears with an unequal light, because being full only when she is in opposition, on all the remaining days she shows only so much of herself to the earth as she receives light from the sun. She is not seen in conjunction, because, at that time, she sends back the whole stream of light to the source whence she has derived it. That the stars generally are nourished by the terrestrial moisture is evident, because, when the moon is only half visible she is sometimes seen spotted, her power of absorbing moisture not having been powerful enough; for the spots are nothing else than the dregs of the earth drawn up along with the moisture. (10.) But her eclipses and those of the sun, the most wonderful of all the phænomena of nature, and which are like prodigies, serve to indicate the magnitude of these bodies and the shadow which they cast.

CHAP. 7. OF THE ECLIPSES OF THE SUN AND THE MOON

For it is evident that the sun is hid by the intervention of the moon, and the moon by the opposition of the earth, and that these changes are mutual, the moon, by her interposition, taking the rays of the sun from the earth, and the earth from the moon. As she advances darkness is suddenly produced, and again the sun is obscured by her shade; for night is nothing more than the shade of the earth. The figure of this shade is like that of a pyramid or an inverted top; and the moon enters it only near its point, and it does not exceed the height of the moon, for there is no other star which is obscured in the same manner, while a figure of this kind always terminates in a point. The flight of birds, when very lofty, shows that shadows do not extend beyond a certain

distance; their limit appears to be the termination of the air and the commencement of the æther. Above the moon everything is pure and full of an eternal light. The stars are visible to us in the night, in the same way that other luminous bodies are seen in the dark. It is from these causes that the moon is eclipsed during the night. The two kinds of eclipses are not, however, at the stated monthly periods, on account of the obliquity of the zodiac, and the irregularly wandering course of the moon, as stated above; besides that the motions of these stars do not always occur exactly at the same points.

CHAP. 8. (11.) OF THE MAGNITUDE OF THE STARS

This kind of reasoning carries the human mind to the heavens, and by contemplating the world as it were from thence, it discloses to us the magnitude of the three greatest bodies in nature. For the sun could not be entirely concealed from the earth, by the intervention of the moon, if the earth were greater than the moon. And the vast size of the third body, the sun, is manifest from that of the other two, so that it is not necessary to scrutinize its size, by arguing from its visible appearance, or from any conjectures of the mind; it must be immense, because the shadows of rows of trees, extending for any number of miles, are disposed in right lines, as if the sun were in the middle of space. Also, because, at the equinox, he is vertical to all the inhabitants of the southern districts at the same time; also, because the shadows of all the people who live on this side of the tropic fall, at noon, towards the north, and, at sunrise, point to the west. But this could not be the case unless the sun were much greater than the earth; nor, unless it much exceeded Mount Ida in breadth, could he be seen when he rises, passing considerably beyond it to the right and to the left, especially, considering that it is separated by so great an interval.

The eclipse of the moon affords an undoubted argument of the sun's magnitude, as it also does of the small size of the earth. For there are shadows of three figures, and it is evident, that if the body which produces the shadow be equal to the light, then it will be thrown off in the form of a pillar, and have no termination. If the body be greater than the light, the shadow will be in the form of an inverted cone, the bottom being the narrowest part, and being, at the same time, of an infinite length. If the body be less than the light, then we shall have the figure of a pyramid, terminating in a point. Now of this last kind is the shadow which produces the eclipse of the moon, and this is so manifest that there can be no doubt remaining, that the earth is exceeded

in magnitude by the sun, a circumstance which is indeed indicated by the silent declaration of nature herself. For why does he recede from us at the winter half of the year? That by the darkness of the nights the earth may be refreshed, which otherwise would be burned up, as indeed it is in certain parts, so great is his size.

CHAP. 9. (12.) AN ACCOUNT OF THE OBSERVATIONS THAT HAVE BEEN MADE ON THE HEAVENS BY DIFFERENT INDIVIDUALS

The first among the Romans, who explained to the people at large the cause of the two kinds of eclipses, was Sulpicius Gallus, who was consul along with Marcellus; and when he was only a military tribune he relieved the army from great anxiety the day before King Perseus was conquered by Paulus; for he was brought by the general into a public assembly, in order to predict the eclipse, of which he afterwards gave an account in a separate treatise. Among the Greeks, Thales the Milesian first investigated the subject, in the fourth year of the forty-eighth olympiad, predicting the eclipse of the sun which took place in the reign of Alyattes, in the 170th year of the City. After them Hipparchus calculated the course of both these stars for the term of 600 years, including the months, days, and hours, the situation of the different places and the aspects adapted to each of them; all this has been confirmed by experience, and could only be acquired by partaking, as it were, in the councils of nature. These were indeed great men, superior to ordinary mortals, who having discovered the laws of these divine bodies, relieved the miserable mind of man from the fear which he had of eclipses, as foretelling some dreadful events or the destruction of the stars. This alarm is freely acknowledged in the sublime strains of Stesichorus and Pindar, as being produced by an eclipse of the sun. And with respect to the eclipse of the moon, mortals impute it to witchcraft, and therefore endeavor to aid her by producing discordant sounds. In consequence of this kind of terror it was that Nicias, the general of the Athenians, being ignorant of the cause, was afraid to lead out the fleet, and brought great distress on his troops. Hail to your genius, ye interpreters of heaven! ye who comprehend the nature of things, and who have discovered a mode of reasoning by which ye have conquered both gods and men! For who is there, in observing these things and seeing the labors which the stars are compelled to undergo (since we have chosen to apply this term to them), that would not cheerfully submit to his fate, as one born to die? I shall now, in a brief and summary manner, touch on those points in which we are agreed, giving the

reasons where it is necessary to do so; for this is not a work of profound argument, nor is it less wonderful to be able to suggest a probable cause for everything, than to give a complete account of a few of them only.

CHAP. 10. (13.) ON THE RECURRENCES OF THE ECLIPSES OF THE SUN AND THE MOON

It is ascertained that the eclipses complete their whole revolution in the space of 223 months, that the eclipse of the sun takes place only at the conclusion or the commencement of a lunation, which is termed conjunction, while an eclipse of the moon takes place only when she is at the full, and is always a little farther advanced than the preceding eclipse. Now there are eclipses of both these stars in every year, which take place below the earth, at stated days and hours; and when they are above it they are not always visible, sometimes on account of the clouds, but more frequently, from the globe of the earth being opposed to the vault of the heavens. It was discovered two hundred years ago, by the sagacity of Hipparchus, that the moon is sometimes eclipsed after an interval of five months, and the sun after an interval of seven; also, that he becomes invisible, while above the horizon, twice in every thirty days, but that this is seen in different places at different times. But the most wonderful circumstance is, that while it is admitted that the moon is darkened by the shadow of the earth, this occurs at one time on its western, and at another time on its eastern side. And farther, that although, after the rising of the sun, that darkening shadow ought to be below the earth, yet it has once happened, that the moon has been eclipsed in the west, while both the luminaries have been above the horizon. And as to their both being invisible in the space of fifteen days, this very thing happened while the Vespasians were emperors, the father being consul for the third time, and the son for the second.—Natural History, Bk. II.

THE INVENTORS OF VARIOUS THINGS

Before we quit the consideration of the nature of man, it appears only proper to point out those persons who have been the authors of different inventions. Father Liber was the first to establish the practice of buying and selling; he also invented the diadem, the emblem of royalty, and the triumphal procession. Ceres introduced corn, the acorn having been previously used by man for food; it was she, also,

who introduced into Attica the art of grinding corn and of making bread, and other similar arts into Sicily; and it was from these circumstances that she came to be regarded as a divinity. She was the first also to establish laws; though, according to some, it was Rhadamanthus. I have always been of opinion that letters were of Assyrian origin, but other writers, Gellius, for instance, suppose that they were invented in Egypt by Mercury; others, again, will have it that they were discovered by the Syrians; and that Cadmus brought from Phœnicia sixteen letters into Greece. To these, Palamedes, it is said, at the time of the Trojan war, added these four, Th, X, Ph, and Ch. Cimonides, the lyric poet, afterwards added a like number, Z, E (long), Ps, and O (long); the sounds denoted by all of which are now received into our alphabet.

Aristotle, on the other hand, is rather of the opinion that there were originally eighteen letters, A B G D E Z I K C M N O P R S T U Ph, and that two, Th namely, and Ch, were introduced by Epicharmus, and not by Palamedes. Aristides says that a certain person of the name of Menos, in Egypt, invented letters fifteen years before the reign of Phoroneus, the most ancient of all the kings of Greece, and this he attempts to prove by the monuments there. On the other hand, Epigenes, a writer of very great authority, informs us that the Babylonians have a series of observations on the stars, for a period of seven hundred and twenty thousand years, inscribed on baked bricks. Berosus and Critodemus, who make the period the shortest, give it as four hundred and ninety thousand years. From this statement, it would appear that letters have been in use from all eternity. The Pelasgi were the first to introduce them into Latium.

The brothers Euryalus and Hyperbius were the first who constructed brick kilns and houses at Athens; before which, caves in the ground served for houses. Gellius is inclined to think that Toxius, the son of Cælus, was the first inventor of mortar, it having been suggested to him by the nest of the swallow. Cecrops gave to a town the name of Cecropia, after himself; this is now the citadel of Athena. Some persons will have it that Argos had been founded before this period by King Phoroneus; others, again, that Sicyon had been previously built; while the Egyptians declare that their own city, Diospolis, had been in existence long before them. Cinyra, the son of Agriopas, invented tiles and discovered copper-mines, both of them in the island of Cyprus; he also invented the tongs, the hammer, the lever, and the anvil. Wells were invented by Danaus, who came from Egypt into that part of Greece which had been previously known as Argos Dipsion.

The first stone-quarries were opened by Cadmus at Thebes, or else, according to Theophrastus, in Phœnicia. Walls were first built by Thrason; according to Aristotle, towers were first erected by the Cyclopes, but according to Theophrastus, by the Tirynthii. The Egyptians invented weaving; the Lydians of Sardis the art of dyeing wool. Closter, the son of Arachne, invented the spindle for spinning wool; Arachne herself, linen cloth and nets; Nicias of Megara, the art of fulling cloth; and Tychius, the Bœotian, the art of making shoes. The Egyptians will have it that the medical art was first discovered among them, while others attribute it to Arabus, the son of Babylonis and Apollo; botany and pharmacy are ascribed to Chiron, the son of Saturn and Philyra.

Aristotle supposes that Scythes, the Lydian, was the first to fuse and temper copper, while Theophrastus ascribes the art to Delas, the Phryian. Some persons ascribe the working of copper to the Chalybes, others to the Cyclopes. Hesiod says, that iron was discovered in Crete, by the Idæan Dactyli. Erichthonius, the Athenian, or, as some people say, Æacus, discovered silver. Gold mines, and the mode of fusing that metal, were discovered by Cadmus, the Phœnician, at the mountain of Pangæus, or, according to other accounts, by Thoas or Eaclis, in Panchaia; or else by Sol, the son of Oceanus, whom Gellius mentions as having been the first who employed honey in medicine. Midacritus was the first who brought tin from the island called Cassiteris. The Cyclopes invented the art of working iron. Chorœbus, the Athenian, was the first who made earthen vessels; but Anacharsis, the Scythian, or, according to others, Hyperbius, the Corinthian, first invented the potter's wheel. Dædalus was the first person who worked in wood; it was he who invented the saw, the axe, the plummet, the gimlet, glue, and isinglass; the square, the level, the turner's lathe, and the key, were invented by Theodorus, of Samos. Measures and weights were invented by Phidon, of Argos, or, according to Gellius, by Palamedes. Pyrodes, the son of Cilix, was the first to strike fire from the flint, and Prometheus taught us how to preserve it, in the stalk of giant-fennel.

The Phrygians first taught us the use of the chariot with four wheels; the Carthaginians, the arts of merchandize, and Eumolpus, the Athenian, the cultivation of the vine, and of trees in general. Staphylus, the son of Silenus, was the first to mix water with wine; olive-oil and the oil-press, as also honey, we owe to Aristæus, the Athenian; the use of oxen and the plough to Buzyges, the Athenian, or, according to other accounts, to Triptolemus.

The Egyptians were the first who established a monarchical government, and the Athenians, after the time of Theseus, a democracy. Phalaris, of Agrigentum, was the first tryant that existed; the Lacedæmonians were the introducers of slavery; and the first capital punishment inflicted was ordered by the Areiopagus. The first battles were fought by the Africans against the Egyptians, with clubs, which they are in the habit of calling phalangæe. Prœtus and Acrisius were the first to use shields, in their contests with each other; or, as some say, Chalcus, the son of Athamas. Midias, the Messenian, invented the coat of mail, and the Lacedæmonians the helmet, the sword, and the spear. Greaves and crests were first used by the Carians; Scythes, the son of Jupiter, it is said, invented the bow and arrows, though some say that arrows were invented by the Ætolians; the javelin, with the thong attached, by Ætolus, the son of Mars; the spear of the light infantry by Tyrrhenus; the dart by Penthesilea, the Amazon; the axe by Pisæus; the hunting-spear, and the scorpion to hurl missiles, by the Cretans; the catapulta, the balista, and the sling, by the Syrophœnicians. Pisæus, the Tyrrhenian, was the first to invent the brazen trumpet, and Artemon, of Clazomenæ, the use of the testudo. The battering-horse, for the destruction of walls, which is at the present day styled the "ram," was invented by Epeus, at Troy. Bellerophon was the first who mounted the horse; bridles and saddles for the horse were invented by Pelethronius. The Thessalians, who are called Centauri, and who dwell along Mount Pelion, were the first to fight on horse-back. The people of Phrygia were the first who used chariots with two horses; Erichthonius first used four. Palamedes, during the Trojan war, was the first who marshalled an army, and invented watchwords, signals, and the use of sentinels. Sinon, at the same period, invented the art of correspondence by signals. Lycaon was the first to think of making a truce, and Theseus a treaty of alliance.

The art of divination by birds we owe to Car, from whom Caria derives its name; Orpheus extended it to other animals. Delphus taught us the art of divining by the inspection of entrails; Amphiaraüs divination by fire; and Tiresias, the Theban, presages from the entrails of birds. We owe to Amphictyon the interpretation of portents and of dreams, and to Atlas, the son of Libya, the art of astrology, or else, according to other accounts, to the Egyptians or the Assyrians. Anaximander, the Milesian, invented the astronomical sphere; and Æolus, the son of Hellen, gave us the theory of the winds.

Amphion was the inventor of music; Pan, the son of Mercury, the

music of the reed, and the flute with the single pipe; Midas, the Phrygian, the transverse flute; and Marsyas, of the same country, the double-pipe. Amphion invented the Lydian measures in music; Thamyris the Thracian, the Dorian, and Marsyas the Phrygian, the Phrygian style. Amphion, or, according to some accounts, Orpheus, and according to others, Linus, invented the Lyre. Terpander, adding three to the former four, increased the number of strings to seven; Simonides added an eighth, and Timotheus a ninth. Thamyris was the first who played on the lyre, without the accompaniment of the voice; and Amphion, or, as some say, Linus, was the first who accompanied it with the voice. Terpander was the first who composed songs expressly for the lyre; and Ardalus, the Trœzenian, was the first who taught us how to combine the voice with the music of the pipe. The Curetes taught us the dance in armour, and Pyrrhus, the Pyrrhic dance, both of them in Crete.

We are indebted to the Pythian oracle for the first heroic verse. A very considerable question has arisen, as to what was the origin of poetry; it is well known to have existed before the Trojan war. Pherecydes of Scyros, in the time of King Cyrus, was the first to write in prose, and Cadmus, the Milesian, was the first historian.

Lycaon first instituted gymnastic games, in Arcadia; Acastus funereal games, at Iolcos; and, after him, Theseus instituted them at the Isthmus. Hercules first instituted the athletic contests at Olympia. Pythus invented the game of ball. Painting was invented in Egypt by Gyges, the Lydian, or, according to Aristotle, in Greece, by Euchir, a kinsman of Dædalus; according to Theophrastus, again, it was invented by Polygnotus, the Athenian.

Danaüs was the first who passed over in a ship from Egypt to Greece. Before his time, they used to sail on rafts, which has been invented by King Erythras, to pass from one island to another in the Red Sea. There are some writers to be found, who are of opinion that they were first thought of by the Mysians and the Trojans, for the purpose of crossing the Hellespont into Thrace. Even at the present day, they are made in the British ocean, of wicker-work covered with hides; on the Nile they are made of papyrus, rushes, and reeds.

We learn from Philostephanus, that Jason was the first person who sailed in a long vessel; Hegesias says it was Paralus, Ctesias, Semiramis, and Archemachus, Egæon. According to Damastes, the Erythræi was the first to construct vessels with two banks of oars; according to Thucydides, Aminocles, the Corinthian, first constructed them with three banks of oars; according to Aristotle, the Carthaginians,

those with four banks; according to Mnesigiton, the people of Salamis, those with five banks; and, according to Xenagoras, the Syracusans, those with six; those above six, as far as ten, Mnesigiton says were first constructed by Alexander the Great. From Philostephanus, we learn that Ptolemy Soter made them as high as twelve banks; Demetrius, the son of Antigonus, with fifteen; Ptolemy Philadelphus, with thirty; and Ptolemy Philopater, who was surnamed Tryphon, with forty. Hippus, the Tyrian, was the first who invented merchant-ships; the Cyrenians, the pinnace; the Phœnicians, the passage-boat; the Rhodians, the skiff; and the Cyprians, the cutter.

We are indebted to the Phœnicians for the first observation of the stars in navigation; the Copæ invented the oar, and the Platæans gave its broad blade. Icarus was the person who invented sails, and Dædalus the mast and yards; the Samians, or else Pericles, the Athenian, transports for horses, and the Thracians, long covered vessels,—before which time they used to fight only from the prow of the stern. Pisæus, the Tyrrhenian, added the beak to ships; Eupalamus, the anchor; Anacharsis, that with two flukes; Pericles, the Athenian, grappling-irons, and hooks like hands; and Tiphys, the helm and rudder. Minos was the first who waged war by means of ships; Hyperbius, the son of Mars, the first who killed an animal; and Prometheus, the first who slew the ox.—Natural History, Bk. VII.

TRANSLATIONS OF BOSTOCK AND RILEY.

QUINTILIAN

MARCUS FABIUS QUINTILIANUS was a native of Spain. The date of his birth was about 35 A. D., of his death about 95 A. D. He began to plead causes in Spain, but after accompanying Galba to Rome where he was proclaimed emperor, took up pleading and the teaching of rhetoric there.

To understand the position of oratory and of an instructor in it at Athens or Rome the reader must consider how little there was to learn then as compared with to-day. The ordinary education of a boy was supposed to include music, gymnastics, and geometry. Under music was included Greek and Latin literature, under geometry what little was known in science. The subjects for education above what might be called the grammar school were oratory and the philosophers. A Roman's fields for action were politics and war. He learned to command in the field, and usually won the right to command through politics. The open highway through politics was oratory, and hence oratory was considered practically the only subject worthy to be the end of a youth's education. So Quintilian won honors and wealth in his profession. He was highly rewarded by Vespasian and was later the instructor of the grand nephews of Domitian. His last years were spent in preparing his work on the education of an orator, the "Institutes." We give below his ideas of the ideal Roman education preliminary to the education of the orator.

THE IDEAL EDUCATION

1. LET A FATHER, then, as soon as his son is born, conceive, first of all, the best possible hopes of him; for he will thus grow the more solicitous about his improvement from the very beginning; since it is a complaint without foundation that "to very few people is granted the faculty of comprehending what is imparted to them, and that most, through dullness of understanding, lose their labor and their time." For, on the contrary, you will find the greater number of men both ready in conceiving and quick in learning; since such quickness is natural to man; and as birds are born to fly, horses to run, and wild beasts to show fierceness, so to us peculiarly belong activity and sagacity of understanding; whence the origin of the mind is thought to be from heaven. 2. But dull and unteachable persons are no more produced in the course of nature than are persons marked by monstrosity and deformities; such are certainly but few. It will be a proof of this assertion, that, among boys, good promise is shown in the far greater number; and, if it passes off in the progress of time, it is manifest that it was not natural ability, but care, that was wanting. 3. But one surpasses another, you will say, in ability. I grant that this is true; but only so far as to accomplish more or less; whereas there is no one who has not gained something by study. Let him who is convinced of this truth, bestow, as soon as he becomes a parent, the most vigilant possible care on cherishing the hopes of a future orator.

4. Before all things, let the talk of the child's nurses not be ungrammatical. Chrysippus wished them, if possible, to be women of some knowledge; at any rate he would have the best, as far as circumstances would allow, chosen. To their morals, doubtless, attention is first to be paid; but let them also speak with propriety. 5. It is they that the child will hear first; it is their words that he will try to form by imitation. We are by nature most tenacious of what we have imbibed in our infant years; as the flavor, with which you scent vessels when new, remains in them; nor can the colors of wool, for which its plain whiteness has been exchanged, be effaced; and those very habits, which are of a more objectionable nature, adhere with the greater

tenacity; for good ones are easily changed for the worse, but when will you change bad ones into good? Let the child not be accustomed, therefore, even while he is yet an infant, to phraseology which must be unlearned.

6. In parents I should wish that there should be as much learning as possible. Nor do I speak, indeed, merely of fathers; for we have heard that Cornelia, the mother of the Gracchi (whose very learned writing in her letters has come down to posterity), contributed greatly to their eloquence; the daughter of Lælius is said to have exhibited her father's elegance in her conversation; and the oration of the daughter of Quintus Hortensius, delivered before the Triumviri, is read not merely as an honor to her sex. 7. Nor let those parents, who have not had the fortune to get learning themselves, bestow the less care on the instruction of their children, but let them, on this very account, be more solicitous as to other particulars.

Of the boys, among whom he who is destined to this prospect is to be educated, the same may be said as concerning nurses.

8. Of *pædagogi* this further may be said, that they should either be men of acknowledged learning, which I should wish to be the first object, or that they should be conscious of their want of learning; for none are more pernicious than those who, having gone some little beyond the first elements, clothe themselves in a mistaken persuasion of their own knowledge; since they disdain to yield to those who are skilled in teaching, and, growing imperious, and sometimes fierce, in a certain right, as it were, of exercising their authority (with which that sort of men are generally puffed up), they teach only their own folly. 9. Nor is their misconduct less prejudicial to the manners of their pupils; for Leonides, the tutor of Alexander, as is related by Diogenes of Babylon, tinctured him with certain bad habits, which adhered to him, from his childish education, even when he was grown up and become the greatest of kings.

10. If I seem to my reader to require a great deal, let him consider that it is an orator that is to be educated; an arduous task, even when nothing is deficient for the formation of his character; and that more and more difficult labors yet remain; for there is need of constant study, the most excellent teachers, and a variety of mental exercises. 11. The best of rules, therefore, are to be laid down; and if any one shall refuse to observe them, the fault will lie, not in the method, but in the man.

If, however, it should not be the good fortune of children to have

such nurses as I should wish, let them at least have one attentive *pædagogus,* not unskilled in language, who, if anything is spoken incorrectly by the nurse in the presence of his pupil, may at once correct it, and not let it settle in his mind. But let it be understood that what I prescribed at first is the right course, and this only a remedy.

12. I prefer that a boy should begin with the Greek language, because he will acquire Latin, which is in general use, even though we tried to prevent him, and because, at the same time, he ought first to be instructed in Greek learning, from which ours is derived. 13. Yet I should not wish this rule to be so superstitiously observed that he should for a long time speak or learn only Greek, as is the custom with most people; for hence arise many faults of pronunciation, which is viciously adapted to foreign sounds, and also of language, in which when Greek idioms have become inherent by constant usage, they keep their place most pertinaciously even when we speak a different tongue. 14. The study of Latin ought therefore to follow at no long interval, and soon after to keep pace with the Greek; and thus it will happen, that, when we have begun to attend to both tongues with equal care, neither will impede the other.

15. Some have thought that boys, as long as they are under seven years of age, should not be set to learn, because that is the earliest age that can understand what is taught, and endure the labor of learning. Of which opinion a great many writers say that Hesiod was, at least such writers as lived before Aristophanes the grammarian, for he was the first to deny that the work *Hypothekai,* in which this opinion is found, was the work of that poet. 16. But other writers likewise, among whom is Erastothenes, have given the same advice. Those, however, advise better, who, like Chrysippus, think that no part of a child's life should be exempt from tuition; for Chrysippus, though he has allowed three years to the nurses, yet is of the opinion that the minds of children may be imbued with excellent instruction even by them. 17. And why should not that age be under the influence of learning, which is now confessedly subject to moral influence? I am not indeed ignorant that, during the whole time of which I am speaking, scarcely as much can be done as one year may afterwards accomplish, yet those who are of the opinion which I have mentioned, appear with regard to this part of life to have spared not so much the learners as the teachers. 18. What else, after they are able to speak, will children do better, for they must do something? Or why should we despise the gain, how little soever it be, previous to the age of seven

years? For certainly, small as may be the proficiency which an earlier age exhibits, the child will yet learn something greater during the very year in which he would have been learning something less. 19. This advancement extended through each year, is a profit on the whole; and whatever is gained in infancy is an acquisition to youth. The same rule should be prescribed as to the following years, so that what every boy has to learn, he may not be too late in beginning to learn. Let us not then lose even the earliest period of life, and so much the less, as the elements of learning depend on the memory alone, which not only exists in children, but is at that time of life even most tenacious.

20. Yet I am not so unacquainted with differences of age, as to think that we should urge those of tender years severely, or exact a full complement of work from them; for it will be necessary, above all things, to take care lest the child should conceive a dislike to the application which he cannot yet love, and continue to dread the bitterness which he has once tasted, even beyond the years of infancy. Let his instruction be an amusement to him; let him be questioned and praised; and let him never feel pleased that he does not know a thing; and sometimes, if he is unwilling to learn, let another be taught before him, of whom he may be envious. Let him strive for victory now and then, and generally suppose that he gains it; and let his powers be called forth by rewards, such as that age prizes.

21. We are giving small instructions, while professing to educate an orator; but even studies have their infancy; and as the rearing of the very strongest bodies commenced with milk and the cradle, so he, who was to be the most eloquent of men, once uttered cries, tried to speak at first with a stuttering voice, and hesitated at the shapes of the letters. Nor, if it is impossible to learn a thing completely, is it therefore unnecessary to learn it at all. 22. If no one blames a father, who thinks that these matters are not to be neglected in regard to his son, why should he be blamed who communicates to the public what he would practice to advantage in his own house? And this is so much the more the case, as younger minds more easily take in small things; and as bodies cannot be formed to certain flexures of the limbs unless while they are tender, so even strength itself makes our minds likewise more unyielding to most things. 22. Would Philip, king of Macedonia, have wished the first principles of learning to be communicated to his son Alexander by Aristotle, the greatest philosopher of that age, or would Aristotle have undertaken that office, if they had not both thought that the first rudiments of instruction are best treated by the most accom-

plished teacher, and have an influence on the whole course? 24. Let us suppose, then, that Alexander were committed to me, and laid in my lap, an infant worthy of so much solicitude (though every man thinks his own son worthy of similar solicitude), should I be ashamed, even in teaching him his very letters, to point out some compendious methods of instruction?

For that at least, which I see practiced in regard to most children, by no means pleases me, namely, that they learn the names and order of the letters before they learn their shapes. 25. This method hinders their recognition of them, as, while they follow their memory that takes the lead, they do not fix their attention on the forms of the letters. This is the reason why teachers, even when they appear to have fixed them sufficiently in the minds of children, in the straight order in which they are usually first written, make them go over them again the contrary way, and confuse them by variously changing the arrangement, until their pupils know them by their shape, not by their place. It will be best for children, therefore, to be taught the appearances and names of the letters at once, as they are taught those of men. 26. But that which is hurtful with regard to letters, will be no impediment with regard to syllables. I do not disapprove, however, the practice, which is well known, of giving children, for the sake of stimulating them to learn, ivory figures of letters to play with, or whatever else can be invented, in which that infantine age may take delight, and which may be pleasing to handle, look at, or name.

27. But as soon as the child shall have begun to trace the forms of the letters, it will not be improper that they should be cut for him, as exactly as possible, on a board, that his style may be guided along them as along grooves, for he will then make no mistakes, as on wax (since he will be kept in by the edge on each side, and will be unable to stray beyond the boundary); and, by following these sure traces rapidly and frequently, he will form his hand, and not require the assistance of a person to guide his hand with his own hand placed over it. 28. The accomplishment of writing well and expeditiously, which is commonly disregarded by people of quality, is by no means an indifferent matter; for as writing itself is the principal thing in our studies, and that by which alone sure proficiency, resting on the deepest roots, is secured, a too slow way of writing retards thought, a rude and confused hand cannot be read; and hence follows another task, that of reading off what is to be copied from the writing. 29. At all times, therefore, and in all places, and especially in writing private and familiar letters, it will

be a source of pleasure to us, not to have neglected even this acquirement.

30. For learning syllables there is no short way; they must all be learned throughout; nor are the most difficult of them, as is the general practice, to be postponed, that children may be at a loss, forsooth, in writing words. 32. Moreover, we must not even trust to the first learning by heart; it will be better to have syllables repeated, and to impress them long upon the memory; and in reading too, not to hurry on, in order to make it continuous or quick, until the clear and certain connexion of the letters become familiar, without at least any necessity to stop for recollection. Let the pupil then begin to form words from syllables, and to join phrases together from words. 32. It is incredible how much retardation is caused to reading by haste; for hence arise hesitation, interruption, and repetition, as children attempt more than they can manage; and then, after making mistakes, they become distrustful even of what they know. 33. Let reading, therefore, be at first sure, then continuous, and for a long time slow, until, by exercise, a correct quickness is gained. 34 For to look to the right, as everybody teaches, and to look forward, depends not merely on rule, but on habit, since, while the child is looking to what follows, he has to pronounce what goes before, and, what is very difficult, the direction of his thoughts must be divided, so that one duty may be discharged with his voice, and another with his eyes.

When the child shall have begun, as is the practice, to write words, it will cause no regret if we take care that he may not waste his efforts on common words, and such as perpetually occur. 35. For he may readily learn the explanations of obscure terms, which the Greeks call *glossai,* while some other occupation is before him, and acquire amidst his first rudiments, a knowledge of that which would afterwards demand a special time for it. Since, too, we are still attending to small matters, I would express a wish that even the lines, which are set him for his imitation in writing, should not contain useless sentences, but such as convey some moral instruction. 36. The resemblance of such admonitions will attend him to old age, and will be of use even for the formation of his character. It is possible for him, also, to learn the sayings of eminent men, and select passages, chiefly from the poets (for the reading of poets is more pleasing to the young), in his play-time; since memory (as I shall show in its proper place) is most necessary to an orator, and is eminently strengthened and nourished by exercise; and, at the age of which we are now speaking, and which cannot, as yet,

produce anything of itself, it is almost the only faculty that can be improved by the aid of teachers. 37. It will not be improper, however, to require of boys of this age (in order that their pronunciation may be fuller and their speech more distinct) to roll forth, as rapidly as possible, certain words and lines of studied difficulty, composed of several syllables, and those roughly clashing together, and, as it were, rugged-sounding; the Greeks call them *chalepoi*. This may seem a trifling matter to mention, but when it is neglected, many faults of pronunciation, unless they are removed in the years of youth, are fixed by incorrigible ill habit for the rest of life.

CHAPTER II.

1. But let us suppose that the child now gradually increases in size, leaves the lap, and applies himself to learning in earnest. In this place, accordingly, must be considered the question, whether it be more advantageous to confine the learner at home, and within the walls of a private house, or to commit him to the large numbers of a school, and, as it were, to public teachers. 2. The latter mode, I observe, has had the sanction of those by whom the polity of the most eminent states was settled, as well as that of the most illustrious authors.

Yet it is not to be concealed, that there are some who, from certain notions of their own, disapprove of this almost public mode of instruction. These persons appear to be swayed chiefly by two reasons: one, that they take better precautions for the morals of the young, by avoiding a concourse of human beings of that age which is most prone to vice; (from which cause I wish it were falsely asserted that provocations to immoral conduct arise;) the other, that whoever may be the teacher, he is likely to bestow his time more liberally on one pupil, than if he has to divide it among several. 3. The first reason indeed deserves great consideration; for if it were certain that schools, though advantageous to studies, are pernicious to morals, a virtuous course of life would seem to me preferable to one even of the most distinguished eloquence. But in my opinion, the two are combined and inseparable; for I am convinced that no one can be an orator who is not a good man; and, even if any one could, I should be unwilling that he should be. On this point, therefore, I shall speak first.

4. People think that morals are corrupted in schools; for indeed they are at times corrupted; but such may be the case even at home.

Many proofs of this fact may be adduced; proofs of character having been vitiated, as well as preserved with the utmost purity, under both modes of education. It is the disposition of the individual pupil, and the care taken of him, that make the whole difference. Suppose that his mind be prone to vice, suppose that there be neglect in forming and guarding his morals in early youth, seclusion would afford no less opportunity for immorality than publicity; for the private tutor may be himself of bad character; nor is intercourse with vicious slaves at all safer than that with immodest free-born youths. 5. But if his disposition be good, and if there be not a blind and indolent negligence on the part of his parents, it will be possible for them to select a tutor of irreproachable character, (a matter to which the utmost attention is paid by sensible parents,) and to fix on a course of instruction of the very strictest kind; while they may at the same time place at the elbow of their son some influential friend or faithful freedman, whose constant attendance may improve even those of whom apprehensions may be entertained.

6. The remedy for this object of fear is easy. Would that we ourselves did not corrupt the morals of our children! We enervate their very infancy with luxuries. That delicacy of education, which we call fondness, weakens all the powers, both of body and mind. What luxury will he not covet in his manhood, who crawls about on purple! He cannot yet articulate his first words, when he already distinguishes scarlet, and wants his purple. 7. We form the palate of children before we form their pronunciation. They grow up in sedan chairs; if they touch the ground, they hang by the hands of attendants supporting them on each side. We are delighted if they utter any thing immodest. Expressions which would not be tolerated even from the effeminate youths of Alexandria, we hear from them with a smile and a kiss. Nor is this wonderful; we have taught them; they have heard such language from ourselves. 8. They see our mistresses, our male objects of affection; every dining-room rings with impure songs; things shameful to be told are objects of sight. From such practices springs habit, and afterwards nature. The unfortunate children learn these vices before they know that they are vices: and hence, rendered effeminate and luxurious, they do not imbibe immorality from schools, but carry it themselves into schools.

9. But. it is said, one tutor will have more time for one pupil. First of all, however, nothing prevents that one pupil, whoever he may be, from being the same with him who is taught in the school. But if

the two objects cannot be united, I should still prefer the day-light of an honorable seminary to darkness and solitude; for every eminent teacher delights in a large concourse of pupils, and thinks himself worthy of a still more numerous auditory. 10. But inferior teachers, from a consciousness of their inability, do not disdain to fasten on single pupils, and to discharge the duty as it were of *pædagogi*. 11. But supposing that their interest, or friendship, or money, should secure to any parent a domestic tutor of the highest learning, and in every respect unrivalled, will he however spend the whole day on one pupil? Or can the application of any pupil be so constant as not to be sometimes wearied, like the sight of the eyes, by continued direction to one object, especially as study requires the far greater portion of time to be solitary. 12. For the tutor does not stand by the pupil while he is writing, or learning by heart, or thinking; and when he is engaged in any of those exercises, the company of any person whatsoever is a hindrance to him. Nor does every kind of reading require at all times a prælector or interpreter; for when, if such were the case, would the knowledge of so many authors be gained? The time, therefore, during which the work as it were for the whole day may be laid out, is but short. 13. Thus the instructions which are to be given to each, may reach to many. Most of them, indeed, are of such a nature that they may be communicated to all at once with the same exertion of the voice. I say nothing of the topics and declamations of the rhetoricians, at which, certainly, whatever be the number of the audience, each will still carry off the whole. 14. For the voice of the teacher is not like a meal, which will not suffice for more than a certain number, but like the sun, which diffuses the same portion of light and heat to all. If a grammarian, too, discourses on the art of speaking, solves questions, explains matters of history, or illustrates poems, as many as shall hear him will profit by his instructions. 15. But, it may be said, number is an obstacle to correction and explanation. Suppose that this be a disadvantage in a number, (for what in general satisfies us in every respect?) we will soon compare that disadvantage with other advantages.

Yet I would not wish a boy to be sent to a place where he will be neglected. Nor should a good master encumber himself with a greater number of scholars than he can manage; and it is to be a chief object with us, also, that the master may be in every way our kind friend, and may have regard in his teaching, not so much to duty, as to affection. Thus we shall never be confounded with the multitude. 16. Nor will any master, who is in the slightest degree tinctured with literature, fail

particularly to cherish that pupil in whom he shall observe application and genius, even for his own honor. But even if great schools ought to be avoided (a position to which I cannot assent, if numbers flock to a master on account of his merit), the rule is not to be carried so far that schools should be avoided altogether. It is one thing to shun schools, another to choose from them.

17. If I have now refuted the objections which are made to schools, let me next state what opinions I myself entertain. 18. First of all, let him who is to be an orator, and who must live amidst the greatest publicity, and in the full day-light of public affairs, accustom himself, from his boyhood, not to be abashed at the sight of men, nor pine in a solitary and as it were recluse way of life. The mind requires to be constantly excited and roused, while in such retirement it either languishes, and contracts rust, as it were, in the shade, or, on the other hand, becomes swollen with empty conceit, since he who compares himself to no one else, will necessarily attribute too much to his own powers. 19. Besides, when his acquirements are to be displayed in public, he is blinded at the light of the sun, and stumbles at every new object, as having learned in solitude that which is to be done in public. 20. I say nothing of friendships formed at school, which remain in full force even to old age, as if cemented with a certain religious obligation; for to have been initiated in the same studies is a not less sacred bond than to have been initiated in the same sacred rites. That sense, too, which is called common sense, where shall a young man learn when he has separated himself from society, which is natural not to men only, but even to dumb animals? 21. Add to this, that, at home, he can learn only what is taught himself; at school, even what is taught others. 22. He will daily hear many things commended, many things corrected; the idleness of a fellow student, when reported, will be a warning to him; the industry of any one, when commended, will be a stimulus; emulation will be excited by praise; and he will think it a disgrace to yield to his equals in age, and an honor to surpass his seniors. All these matters excite the mind; and though ambition itself be a vice, yet it is often the parent of virtues.

23. I remember a practice that was observed by my masters, not without advantage. Having divided the boys into classes, they assigned them their order in speaking in conformity to the abilities of each; and thus each stood in the higher place to declaim according as he appeared to excel in proficiency. 24. Judgments were pronounced on the performances; and great was the strife among us for distinction; but to

take the lead of the class was by far the greatest honor. Nor was sentence given on our merits only once; the thirtieth day brought the vanquished an opportunity of contending again. Thus he who was most successful, did not relax his efforts, while uneasiness incited the unsuccessful to retrieve his honor. 25. I should be inclined to maintain, as far as I can form a judgment from what I conceive in my own mind, that this method furnished stronger incitements to the study of eloquence, than the exhortations of preceptors, the watchfulness of *pædagogi,* or the wishes of parents.

26. But as emulation is of use to those who have made some advancement in learing, so, to those who are but beginning, and are still of tender age, to imitate their school-fellows is more pleasant than to imitate their master, for the very reason that it is more easy; for they who are learning the first rudiments will scarcely dare to exalt themselves to the hope of attaining that eloquence which they regard as the highest; they will rather fix on what is nearest to them, as vines attached to trees gain the top by taking hold of the lower branches first. 27. This is an observation of such truth, that it is the care even of the master himself, when he has to instruct minds that are still unformed, not (if he prefer at least the useful to the showy) to overburden the weakness of his scholars, but to moderate his strength, and to let himself down to the capacity of the learner. 28. For as narrow-necked vessels reject a great quantity of the liquid that is poured upon them, but are filled by that which flows or is poured into them by degrees, so it is for us to ascertain how much the minds of boys can receive, since what is too much for their grasp of intellect will not enter their minds, as not being sufficiently expanded to admit it. 29. It is of advantage therefore for a boy to have school-fellows whom he may first imitate, and afterwards try to surpass. Thus will he gradually conceive hope of higher excellence.

To these observations I shall add, that masters themselves, when they have but one pupil at a time with them, cannot feel the same degree of energy and spirit in addressing him, as when they are excited by a large number of hearers. 30. Eloquence depends in a great degree on the state of the mind, which must conceive images of objects, and transform itself, so to speak, to the nature of the things of which we discourse. Besides, the more noble and lofty a mind is, by the more powerful springs, as it were, is it moved, and accordingly is both strengthened by praise, and enlarged by effort, and is filled with joy at achieving something great. 31. But a certain secret disdain is felt at lower-

ing the power of eloquence, acquired by so much labor, to one auditor; and the teacher is ashamed to raise his style above the level of ordinary conversation. Let any one imagine, indeed, the air of a man haranguing, or the voice of one entreating, the gesture, the pronunciation, the agitation of mind and body, the exertion, and, to mention nothing else, the fatigue, while he has but one auditor; would not he seem to be affected with something like madness? There would be no eloquence in the world, if we were to speak only with one person at a time.

CHAPTER III.

1. Let him that is skilled in teaching, ascertain first of all, when a boy is entrusted to him, his ability and disposition. The chief symptom of ability in children is memory, of which the excellence is two-fold, to receive with ease and retain with fidelity. The next symptom is imitation; for that is an indication of a teachable disposition, but with this provision, that it express merely what it is taught, and not a person's manner or walk, for instance, or whatever may be remarkable for deformity. 2. The boy who shall make it his aim to raise a laugh by his love of mimicry, will afford me no hope of good capacity; for he who is possessed of great talent will be well disposed; else I should think it not at all worse to be of a dull, than of a bad, disposition; but he who is honorably inclined will be very different from the stupid or idle. 3. Such a pupil as I would have, will easily learn what is taught him, and will ask questions about some things, but will still rather follow than run on before. That precocious sort of talent scarcely ever comes to good fruit. 4. Such are those who do little things easily, and, impelled by impudence, show at once all that they can accomplish in such matters. But they succeed only in what is ready to their hand; they string words together, uttering them with an intrepid countenance, not in the least discouraged by bashfulness; and do little, but do it readily. 5. There is no real power behind, or any that rests on deeply fixed roots; but they are like seeds which have been scattered on the surface of the ground and shoot up prematurely, and like grass that resembles corn, and grows yellow, with empty ears, as compared with their harvest. Their efforts give pleasure, as compared with their years; but their progress comes to a stand, and our wonder diminishes.

6. When a tutor has observed these indications, let him next consider how the mind of his pupil is to be managed. Some boys are

indolent, unless you stimulate them; some are indignant at being commanded; fear restrains some, and unnerves others; continued labor forms some; with others, hasty efforts succeed better. 7. Let the boy be given to me, whom praise stimulates, whom honor delights, who weeps when he is unsuccessful. His powers must be cultivated under the influence of ambition; reproach will sting him to the quick; honor will incite him; and in such a boy I shall never be apprehensive of indifference.

8. Yet some relaxation is to be allowed to all; not only because there is nothing that can bear perpetual labor, (and even those things that are without sense and life are unbent by alternate rest, as it were, in order that they may preserve their vigor,) but because application to learning depends on the will, which cannot be forced. 9. Boys, accordingly, when re-invigorated and refreshed, bring more sprightliness to their learning, and a more determined spirit, which for the most part spurns compulsion. 10. Nor will play in boys displease me; it is a sign of vivacity; and I cannot expect that he who is always dull and spiritless will be of an eager disposition in his studies, when he is indifferent even to that excitement which is natural to his age. 11. There must however be bonds set to relaxation, lest the refusal of it beget an aversion to study, or too much indulgence in it a habit of idleness. There are some kinds of amusement, too, not unserviceable for sharpening the wits of boys, as when they contend with each other by proposing all sorts of questions in turn. 12. In their plays, also, their moral dispositions show themselves more plainly, supposing that there is no age so tender that it may not readily learn what is right and wrong; and the tender age may best be formed at a time when it is ignorant of dissimulation, and most willingly submits to instructors; for you may break, sooner than mend, that which has hardened into deformity. 13. A child is as early as possible, therefore, to be admonished that he must do nothing too eagerly, nothing dishonestly, nothing without self-control; and we must always keep in mind the maxim of Virgil, *Adeo in teneris consuescere multum est,* "of so much importance is the acquirement of habit in the young."

14. But that boys should suffer corporal punishment, though it be a received custom, and Chrysippus makes no objection to it, I by no means approve; first, because it is a disgrace, and a punishment for slaves, and in reality (as will be evident if you imagine the age changed) an affront; secondly, because, if a boy's disposition be so abject as not to be amended by reproof, he will be hardened, like the worst of slaves,

even to stripes; and lastly, because, if one who regularly exacts his tasks be with him, there will not be the least need of any such chastisement. 15. At present, the negligence of *pædagogi* seems to be made amends for in such a way that boys are not obliged to do what is right, but are punished whenever they have not done it. Besides, after you have coerced a boy with stripes, how will you treat him when he becomes a young man, to whom such terror cannot be held out, and by whom more difficult studies must be pursued? 16. Add to these considerations, that many things unpleasant to be mentioned, and likely afterwards to cause shame, often happen to boys while being whipped, under the influence of pain or fear; and such shame enervates and depresses the mind, and makes them shun people's sight and feel a constant uneasiness. 17. If, moreover, there has been too little care in choosing governors and tutors of reputable character, I am ashamed to say how scandalously unworthy men may abuse their privilege of punishing, and what opportunity also the terror of the unhappy children may sometimes afford to others. I will not dwell upon this point; what is already understood is more than enough. It will be sufficient therefore to intimate, that no man should be allowed too much authority over an age so weak and so unable to resist ill-treatment.

18. I will now proceed to show in what studies he who is to be so trained that he may become an orator, must be instructed, and which of them must be commenced at each particular period of youth.

CHAPTER IV.

1. In regard to the boy who has attained facility in reading and writing, the next object is instruction from the grammarians. Nor is it of importance whether I speak of the Greek or Latin grammarian, though I am inclined to think that the Greek should take the precedence. 2. Both have the same method. This profession, then, distinguished as it is, most compendiously, into two parts, the art *of speaking correctly,* and the *illustration of the poets,* carries more beneath the surface than it shows on its front. 3. For not only is the *art of writing* combined with that of speaking, but *correct reading* also precedes illustration, and with all these is joined the exercise of *judgment,* which the old grammarians, indeed, used with such severity, that they not only allowed themselves to distinguish certain verses with a peculiar mark of censure, and to remove, as spurious, certain books which had been

inscribed with false titles, from their sets, but even brought some authors within their canon, and excluded others altogether from classification. 4. Nor is it sufficient to have read the poets only; every class of writers must be studied, not simply for matter, but for words, which often receive their authority from writers. Nor can grammar be complete without a knowledge of music, since the grammarian has to speak of metre and rhythm; nor if he is ignorant of astronomy, can he understand the poets, who, to say nothing of other matters, so often allude to the rising and setting of the stars in marking the seasons; nor must he be unacquainted with philosophy, both on account of numbers of passages, in almost all poems, drawn from the most abstruse subtleties of physical investigation, and also on account of Empedocles among the Greeks, and Varro and Lucretius among the Latins, who have committed the precepts of philosophy to verse. 5. The grammarian has also need of no small portion of eloquence, that he may speak aptly and fluently on each of those subjects which are here mentioned. Those therefore are by no means to be regarded who deride this science as trifling and empty, for unless it lays a sure foundation for the future orator, whatever superstructure you raise will fall; it is a science which is necessary to the young, pleasing to the old, and an agreeable companion in retirement, and which alone, of all departments of learning, has in it more service than show.—The Institutes, Bk. I. 1-4.

TRANSLATION OF JOHN SELBY WATSON.

SENECA

Lucius Annaeus Seneca was born at Corduba, the modern Cordova of Spain, about 4 B. C., and died in 65 A. D.

The two principal schools of Greek philosophy which took root in Roman life were stoicism and Epicureanism. Seneca was a disciple of the stoic school. Stoicism believed that true happiness was in doing one's duty, and that only in this way could man rise superior in mind above the troubles of life. They believed duty consisted in acting in accord with the eternal laws of nature. In contrast to the stoic doctrines which he believed in and wrote upon, Seneca led the life of the most typical of courtiers. He won his first honors at Rome as an advocate and came near being murdered by the order of the envious Caligula for them; the next emperor, Claudius, banished him to Corsica, and he was kept there for eight years in spite of his attempts through the most abject flattery to be recalled. On the murder of Claudius by Agrippina he became the tutor of Nero, and it is probable that the first promise of Nero's reign is due to him. But the mad fever in Nero's blood soon drove him into the most awful orgies of vice and crime, and after Nero had murdered his own wicked mother Agrippina, Seneca tried to postpone the death he saw impending over himself by presenting Nero with his immense wealth and begging the privilege of retiring from Rome. It was too late: he was falsely charged with conspiracy and commanded to kill himself, which he did like a Roman and a stoic.

We give below his essay toward Peace of Mind, the end sought by his moral philosophy.

OF PEACE OF MIND

ADDRESSED TO SERENUS

I. [*Serenus.*]

WHEN I examine myself, Seneca, some vices appear on the surface, and so that I can lay my hands upon them, while others are less distinct and harder to reach, and some are not always present, but recur at intervals: and these I should call the most troublesome, being like a roving enemy that assails one when he sees his opportunity, and who will neither let one stand on one's guard as in war, nor yet take one's rest without fear as in peace. The position in which I find myself more especially (for why should I not tell you the truth as I would to a physician), is that of neither being thoroughly set free from the vices which I fear and hate, nor yet quite in bondage to them; my state of mind, though not the worst possible, is a particularly discontented and sulky one: I am neither ill nor well. It is of no use for you to tell me that all virtues are weakly at the outset, and that they acquire strength and solidity by time, for I am well aware that even those which do but help our outward show, such as grandeur, a reputation for eloquence, and everything that appeals to others, gain power by time. Both those which afford us real strength and those which do but trick us out in a more attractive form, require long years before they gradually are adapted to us by time. But I fear that custom, which confirms most things, implants this vice more and more deeply in me. Long acquaintance with both good and bad people leads one to esteem them all alike. What this state of weakness really is, when the mind halts between two opinions without any strong inclination towards either good or evil, I shall be better able to show you piecemeal than all at once. I will tell you what befalls me, you must find out the name of the disease. I have to confess the greatest possible love of thrift: I do not care for a bed with gorgeous hangings, nor for clothes brought out of a chest, or pressed under weights and made glossy by frequent manglings, but for common and cheap ones, that require no care either to keep them or to put them on. For food I do not want what needs whole troops of

servants to prepare it and admire it, nor what is ordered many days before and served up by many hands, but something handy and easily come at, with nothing far-fetched or costly about it, to be had in every part of the world, burdensome neither to one's fortune nor one's body, not likely to go out of the body by the same path by which it came in. I like a rough and unpolished homebred servant, I like my servant born in my house: I like my country-bred father's heavy silver plate stamped with no maker's name: I do not want a table that is beauteous with dappled spots, or known to all the town by the number of fashionable people to whom it has successively belonged, but one which stands merely for use, and which causes no guest's eye to dwell upon it with pleasure or to kindle at it with envy. While I am well satisfied with this, I am reminded of the clothes of a certain school boy, dressed with no ordinary care and splendor, of slaves bedecked with gold and a whole regiment of glittering attendants. I think of houses too, where one treads on precious stones, and where valuables lie about in every corner, where the very roof is brilliantly painted, and a whole nation attends and accompanies an inheritance on the road to ruin. What can I say of waters, transparent to the very bottom, which flow round the guests, and banquets worthy of the theater in which they take place? Coming as I do from a long course of dull thrift, I find myself surrounded by the most brilliant luxury, which echoes around me on every side: my sight becomes a little dazzled by it: I can lift up my heart against it more easily than my eyes. When I return from seeing it I am a sadder, though not a worse man, I cannot walk amid my own paltry possessions with so lofty a step as before, and silently there steals over me a feeling of vexation, and a doubt whether that way of life may not be better than mine. None of these things alter my principles, yet all of them disturb me. At one time I would obey the maxims of our school and plunge into public life, I would obtain office and become consul, not because the purple robe and lictor's staves attract me, but in order that I may be able to be of use to my friends, my relatives, to all my countrymen, and indeed to all mankind. Ready and determined, I follow the advice of Zeno, Cleanthes, and Chrysippus, all of whom bid one take part in public affairs, though none of them ever did so himself: and then, as soon as something disturbs my mind, which is not used to receiving shocks, as soon as something occurs which is either disgraceful, such as often occurs in all men's lives, or which does not proceed quite easily, or when subjects of very little importance require me to devote a great deal of time to them, I go back to my life of

leisure, and, just as even tired cattle go faster when they are going home, I wish to retire and pass my life within the walls of my house. "No one," I say, "that will give me no compensation worth such a loss shall ever rob me of a day. Let my mind be contained within itself and improve itself: let it take no part with other men's affairs, and do nothing which depends on the approval of others: let me enjoy a tranquility undisturbed by either public or private troubles.." But whenever my spirit is roused by reading some brave words, or some noble example spurs me into action, I want to rush into the law courts, to place my voice at one man's disposal, my services at another's, and to try to help him even though I may not succeed, or to quell the pride of some lawyer who is puffed up by ill-deserved success: but I think, by Hercules, that in philosophical speculation it is better to view things as they are, and to speak of them on their own account, and as for words, to trust to things for them, and to let one's speech simply follow whither they lead. "Why do you want to construct a fabric that will endure for ages? Do you not wish to do this in order that posterity may talk of you: yet you were born to die, and a silent death is the least wretched. Write something therefore in a simple style, merely to pass the time, for your own use, and not for publication. Less labor is needed when one does not look beyond the present." Then again, when the mind is elevated by the greatness of its thoughts, it becomes ostentatious in its use of words, the loftier its aspirations, the more loftily it desires to express them, and its speech rises to the dignity of its subject. At such times I forget my mild and moderate determination and soar higher than is my wont, using a language that is not my own. Not to multiply examples, I am in all things attended by this weakness of a well-meaning mind, to whose level I fear that I shall be gradually brought down, or, what is even more worrying, that I may always hang as though about to fall, and that there may be more the matter with me than I myself perceive: for we take a friendly view of our own private affairs, and partiality always obscures our judgment. I fancy that many men would have arrived at wisdom had they not believed themselves to have arrived there already, had they not purposely deceived themselves as to some parts of their character, and passed by others with their eyes shut: for you have no grounds for supposing that other people's flattery is more ruinous to us than our own. Who dares to tell himself the truth? Who is there, by however large a troop of caressing courtiers he may be surrounded, who in spite of them is not his own greatest flatterer? I beg you, therefore, if you have any remedy by which you

could stop this vacillation of mine, to deem me worthy to owe my peace of mind to you. I am well aware that these oscillations of mind are not perilous and that they threaten me with no serious disorder: to express what I complain of by an exact simile, I am not suffering from a storm, but from sea-sickness. Take from me, then, this evil, whatever it may be, and help one who is in distress within sight of land.

II. [*Seneca.*]

I have long been silently asking myself, my friend Serenus, to what I should liken such a condition of mind, and I find that nothing more closely resembles it than the conduct of those who, after having recovered from a long and serious illness, occasionally experience slight touches and twinges, and although they have passed through the final stages of the disease, yet have suspicions that it has not left them, and though in perfect health yet hold out their pulse to be felt by the physician, and whenever they feel warm suspect that the fever is returning. Such men, Serenus, are not unhealthy, but they are not accustomed to being healthy; just as even a quiet sea or lake nevertheless displays a certain amount of ripple when its waters are subsiding after a storm. What you need, therefore, is, not any of those harsher remedies to which allusion has been made, not that you should in some cases check yourself, in others be angry with yourself, in others sternly reproach yourself, but that you should adopt that which comes last in the list, have confidence in yourself, and believe that you are proceeding on the right path, without being led aside by the numerous divergent tracks of wanderers which cross it in every direction, some of them circling about the right path itself. What you desire, to be undisturbed, is a great thing, nay, the greatest thing of all, and one which raises a man almost to the level of a god. The Greeks call this calm steadiness of mind *euthymia,* and Democritus' treatise upon it is excellently written: I call it peace of mind: for there is no necessity for translating so exactly as to copy the words of the Greek idiom: the essential point is to mark the matter under discussion by a name which ought to have the same meaning as its Greek name, though perhaps not the same form. What we are seeking, then, is how the mind may always pursue a steady, unruffled course, may be pleased with itself, and look with pleasure upon its surroundings, and experience no interruption of this joy, but abide in a peaceful condition without being ever either elated

or depressed: this will be "peace of mind." Let us now consider in a general way how it may be attained: then you may apply as much as you choose of the universal remedy to your own case. Meanwhile we must drag to light the entire disease, and then each one will recognize his own part of it: at the same time you will understand how much less you suffer by your self-depreciation than those who are bound by some grand title of honor, so that shame rather than their own free will forces them to keep up the pretense. The same thing applies both to those who suffer from fickleness and continual changes of purpose, who always are fondest of what they have given up, and those who merely yawn and dawdle: add to these those who, like bad sleepers, turn from side to side, and settle themselves first in one manner and then in another, until at last they find rest through sheer weariness: in forming the habits of their lives they often end by adopting some to which they are not kept by any dislike of change, but in the practice of which old age, which is slow to alter, has caught them living: add also those who are by no means fickle, yet who must thank their dullness, not their consistency for being so, and who go on living not in the way they wish, but in the way they have begun to live. There are other special forms of this disease without number, but it has but one effect, that of making people dissatisfied with themselves. This arises from a distemperature of mind and from desires which one is afraid to express or unable to fulfill, when men either dare not attempt as much as they wish to do, or fail in their efforts and depend entirely upon hope: such people are always fickle and changeable, which is a necessary consequence of living in a state of suspense: they take any way to arrive at their ends, and teach and force themselves to use both dishonorable and difficult means to do so, so that when their toil has been in vain they are made wretched by the disgrace of failure, and do not regret having longed for what was wrong, but having longed for it in vain. They then begin to feel sorry for what they have done, and afraid to begin again, and their mind falls by degrees into a state of endless vacillation, because they can neither command nor obey their passions, of hesitation, because their life cannot properly develop itself, and of decay, as the mind becomes stupified by disappointments. All these symptoms become aggravated when their dislike of a laborious misery has driven them to idleness and to secret studies, which are unendurable to a mind eager to take part in public affairs, desirous of action and naturally restless, because, of course, it finds too few resources within itself: when therefore it loses the amusement which business itself affords to busy men, it cannot

endure home, loneliness, or the walls of a room, and regards itself with dislike when left to itself. Hence arises that weariness and dissatisfaction with oneself, that tossing to and fro of a mind which can nowhere find rest, that unhappy and unwilling endurance of enforced leisure. In all cases where one feels ashamed to confess the real cause of one's suffering, and where modesty leads one to drive one's suffering inward, the desires pent up in a little space without any vent choke one another. Hence comes melancholy and drooping of spirit, and a thousand waverings of the unsteadfast mind, which is held in suspense by unfulfilled hopes, and saddened by disappointed ones: hence comes the state of mind of those who loathe their idleness, complain that they have nothing to do, and view the progress of others with the bitterest jealousy: for an unhappy sloth favors the growth of envy, and men who cannot succeed themselves wish every one else to be ruined. This dislike of other men's progress and despair of one's own produces a mind angered against fortune, addicted to complaining of the age in which it lives, to retiring into corners and brooding over its misiry, until it becomes sick and weary of itself: for the human mind is naturally nimble and apt at movement: it delights in every opportunity of excitement and forgetfulness of itself, and the worse a man's disposition the more he delights in this, because he likes to wear himself out with busy action, just as some sores long for the hands that injure them and delight in being touched, and the foul itch enjoys anything that scratches it. Similarly I assure you that these minds, over which desires have spread like evil ulcers, take pleasure in toils and troubles, for there are some things which please our body while at the same time they give it a certain amount of pain, such as turning oneself over and changing one's side before it is wearied, or cooling oneself in one position after another. It is like Homer's Achilles, lying first upon its face, then upon its back, placing itself in various attitudes, and, as sick people are wont, enduring none of them for long, and using changes as though they were remedies. Hence men undertake aimless wanderings, travel along distant shores, and at one time at sea, at another by land, try to soothe that fickleness of disposition which always is dissatisfied with the present. "Now let us make for Campania: now I am sick of rich cultivation: let us see wild regions, let us thread the passes of Bruttii and Lucania: yet amid this wilderness one wants something of beauty to relieve our pampered eyes after so long dwelling on savage wastes: let us seek Tarentum with its famous harbor, its mild winter climate, and its district, rich enough to support even the great hordes of ancient times. Let us now

return to town: our ears have too long missed its shouts and noise: it would be pleasant also to enjoy the sight of human bloodshed." Thus one journey succeeds another, and one sight is changed for another. As Lucretius says:—

"Thus every mortal from himself doth flee;"

but what does he gain by so doing if he does not escape from himself? he follows himself and weighs himself down by his own burdensome companionship. We must understand, therefore, that what we suffer from is not the fault of the places but of ourselves: we are weak when there is anything to be endured, and cannot support either labor or pleasure, either one's own business or any one else's for long. This has driven some men to death, because by frequently altering their purpose they were always brought back to the same point, and had left themselves no room for anything new. They had become sick of life and of the world itself, and as all indulgences palled upon them they began to ask themselves the question, "How long are we to go on doing the same thing?"

III. You ask me what I think we had better make use of to help us to support this ennui. "The best thing," as Athenodorus says, "is to occupy oneself with business, with the management of affairs of state and the duties of a citizen: for as some pass the day in exercising themselves in the sun and in taking care of their bodily health, and athletes find it most useful to spend the greater part of their time in feeding up the muscles and strength to whose cultivation they have devoted their lives; so too for you who are training your mind to take part in the struggles of political life, it is far more honorable to be thus at work than to be idle. He whose object is to be of service to his countrymen and to all mortals, exercises himself and does good at the same time when he is engrossed in business and is working to the best of his ability both in the interests of the public and of private men. But," continues he, "because innocence is hardly safe among such furious ambitions and so many men who turn one aside from the right path, and it is always sure to meet with more hindrance than help, we ought to withdraw ourselves from the forum and from public life, and a great mind even in a private station can find room wherein to expand freely. Confinement in dens restrains the springs of lions and wild creatures, but this does not apply to human beings, who often effect the most important works in retirement. Let a man, however, withdraw himself only in such a fashion that wherever he spends his leisure his wish may

still be to benefit individual men and mankind alike, both with his intellect, his voice, and his advice. The man that does good service to the state is not only he who brings forward candidates for public office, defends accused persons, and gives his vote on questions of peace and war, but he who encourages young men in well-doing, who supplies the present dearth of good teachers by instilling into their minds the principles of virtue, who seizes and holds back those who are rushing wildly in pursuit of riches and luxury, and, if he does nothing else, at least checks their course—such a man does service to the public, though in a private station. Which does the most good, he who decides between foreigners and citizens (as prætor peregrinus), or, as prætor urbanus, pronounces sentence to the suitors in his court at his assistant's dictation, or he who shows them what is meant by justice, filial feeling, endurance, courage, contempt of death and knowledge of the gods, and how much a man is helped by a good conscience? If then you transfer to philosophy the time which you take away from the public service, you will not be a deserter or have refused to perform your proper task. A soldier is not merely one who stands in the ranks and defends the right or the left wing of the army, but he also who guards the gates—a service which, though less dangerous, is no sinecure—who keeps watch, and takes charge of the arsenal: though all these are bloodless duties, yet they count as military service. As soon as you have devoted yourself to philosophy, you will have overcome all disgust at life: you will not wish for darkness because you are weary of the light, nor will you be a trouble to yourself and useless to others: you will acquire many friends, and all the best men will be attracted towards you: for virtue, in however obscure a position, cannot be hidden, but gives signs of its presence: any one who is worthy will trace it out by its footsteps: but if we give up all society, turn our backs upon the whole human race, and live communing with ourselves alone, this solitude without any interesting occupation will lead to a want of something to do: we shall begin to build up and to pull down, to dam out the sea, to cause waters to flow through natural obstacles, and generally to make a bad disposal of the time which nature has given us to spend: some of us use it grudgingly, others wastefully; some of us spend it so that we can show a profit and loss account, others so that they have no assets remaining: than which nothing can be more shameful. Often a man who is very old in years has nothing beyond his age by which he can prove that he has lived a long time."

IV. To me, my dearest Serenus, Athenodorus seems to have

yielded too completely to the times, to have fled too soon: I will not deny that sometimes one must retire, but one ought to retire slowly, at a foot's pace, without losing one's ensigns or one's honor as a soldier: those who make terms with arms in their hands are more respected by their enemies and more safe in their hands. This is what I think ought to be done by virtue and by one who practices virtue: if Fortune get the upper hand and deprive him of the power of action, let him not straightway turn his back to the enemy, throw away his arms, and run away seeking for a hiding-place, as if there were any place whither Fortune could not pursue him, but let him be more sparing in his acceptance of public office, and after due deliberation discover some means by which he can be of use to the state. He is not able to serve in the army; then let him become a candidate for civic honors: must he live in a private station? then let him be an advocate: is he condemned to keep silence? then let him help his countrymen with silent counsel. Is it dangerous for him even to enter the forum? then let him prove himself a good comrade, a faithful friend, a sober guest in people's houses, at public shows, and at wine parties. Suppose that he has lost the status of a citizen; then let him exercise that of a man: our reason for magnanimously refusing to confine ourselves within the walls of one city, for having gone forth to enjoy intercourse with all lands and for professing ourselves to be citizens of the world is that we may thus obtain a wider theatre on which to display our virtue. Is the bench of judges closed to you, are you forbidden to address the people from the hustings, or to be a candidate at elections? then turn your eyes away from Rome, and themselves before you. Thus it is never possible for so many outlets to be closed against your ambition that more will not remain open to it; but see whether the whole prohibition does not arise from your own fault. You do not choose to direct the affairs of the state except as consul or prytanis or meddix or sufes: what should we say if you refused to serve in the army save as general or military tribune? Even though others may form the first line, and you lot may have placed you among the veterans of the third, do your duty there with your voice, encouragement, example, and spirit: even though a man's hands be cut off, he may find means to help his side in a battle, if he stands his ground and cheers on his comrades. Do something of that sort yourself: if Fortune removes you from the front rank, stand your ground nevertheless and cheer on your comrades, and if somebody stops your mouth, stand nevertheless and help your side in silence. The services of a

good citizen are never thrown away: he does good by being heard and seen, by his expression, his gestures, his silent determination, and his very walk. As some remedies benefit us by their smell as well as by their taste and touch, so virtue even when concealed and at a distance sheds usefulness around. Whether she moves at her ease and enjoys her just rights, or can only appear abroad on sufferance and is forced to shorten sail to the tempest, whether it be unemployed, silent, and pent up in a narrow lodging, or openly displayed, in whatever guise she may appear, she always does good. What? do you think that the example of one who can rest nobly has no value? It is by far the best plan, therefore, to mingle leisure with business, whenever chance impediments or the state of public affairs forbid one's leading an active life: for one is never so cut off from all pursuits as to find no room left for honorable action.

V. Could you anywhere find a more miserable city than that of Athens when it was being torn to pieces by the thirty tyrants? they slew thirteen hundred citizens, all the best men, and did not leave off because they had done so, but their cruelty became stimulated by exercise. In the city which possessed that most reverend tribunal, the Court of the Areopagus, which possessed a Senate, and a popular assembly which was like a Senate, there met daily a wretched crew of butchers, and the unhappy Senate House was crowded with tyrants. A state, in which there were so many tyrants that they would have been enough to form a bodyguard for one, might surely have rested from the struggle; it seemed impossible for men's minds even to conceive hopes of recovering their liberty, nor could they see any room for a remedy for such a mass of evil: for whence could the unhappy state obtain all the Harmodiuses it would need to slay so many tyrants? Yet Socrates was in the midst of the city, and consoled its mourning Fathers, encouraged those who despaired of the republic, by his reproaches brought rich men, who feared that their wealth would be their ruin, to a tardy repentance of their avarice, and moved about as a great example to those who wished to imitate him, because he walked a free man in the midst of thirty masters. However, Athens herself put him to death in prison, and Freedom herself could not endure the freedom of one who had treated a whole band of tyrants with scorn: you may know, therefore, that even in an oppressed state a wise man can find an opportunity for bringing himself to the front, and that in a prosperous and flourishing one wanton insolence, jealousy, and a thousand other cowardly vices bear sway. We ought, therefore to expand or contract ourselves according as the

state presents itself to us, or as Fortune offers us opportunities: but in any case we ought to move and not to become frozen still by fear: nay, he is the best man who, though peril menaces him on every side and arms and chains beset his path, nevertheless neither impairs nor conceals his virtue: for to keep oneself safe does not mean to bury oneself. I think that Curius Dentatus spoke truly when he said that he would rather be dead than alive: the worst evil of all is to leave the ranks of the living before one dies: yet it is your duty, if you happen to live in an age when it is not easy to serve the state, to devote more time to leisure and to literature. Thus, just as though you were making a perilous voyage, you may from time to time put into harbor, and set yourself free from public business without waiting for it to do so.

VI. We ought, however, first to examine our own selves, next the business which we propose to transact, next those for whose sake or in whose company we transact it.

It is, above all things, necessary to form a true estimate of oneself, because as a rule we think that we can do more than we are able: one man is led too far through confidence in his eloquence, another demands more from his estate than it can produce, another burdens a weakly body with some toilsome duty. Some men are too shamefaced for the conduct of public affairs, which require an unblushing front: some men's obstinate pride renders them unfit for courts: some can not control their anger, and break into unguarded language on the slightest provocation: some can not rein in their wit or resist making risky jokes: for all these men leisure is better than employment: a bold, haughty and impatient nature ought to avoid anything that may lead it to use a freedom of speech which will bring it to ruin. Next we must form an estimate of the matter which we mean to deal with, and compare our strength with the deed we are about to attempt: for the bearer ought always to be more powerful than his load: indeed, loads which are too heavy for their bearer must of necessity crush him: some affairs also are not so important in themselves as they are prolific and lead to much more business, which employments, as they involve us in new and various forms of work, ought to be refused. Neither should you engage in anything from which you are not free to retreat: apply yourself to something which you can finish, or at any rate can hope to finish: you had better not meddle with those operations which grow in importance, while they are being transacted, and which will not stop where you intend them to stop.

VII. In all cases one should be careful in one's choice of men,

and see whether they be worthy of our bestowing a part of our life upon them, or whether we shall waste our own time and theirs also: for some even consider us to be in their debt because of our services to them. Athenodorus said that "he would not so much as dine with a man who would not be grateful to him for doing so": meaning, I imagine, that much less would he go to dinner with those who recompense the services of their friends by their table, and regard courses of dishes as donatives, as if they over-ate themselves to do honor to others. Take away from these men their witnesses and spectators: they will take no pleasure in solitary gluttony. You must decide whether your disposition is better suited for vigorous action or for tranquil speculation and contemplation, and you must adopt which ever the bent of your genius inclines you for. Isocrates laid hands upon Ephorus and led him away from the forum, thinking that he would be more usefully employed in compiling chronicles; for no good is done by forcing one's mind to engage in uncongenial work: it is vain to struggle as faithful and pleasant friendship: what a blessing it is when there is one whose breast is ready to receive all your secrets with safety, whose knowledge of your actions you fear less than your own conscience, whose conversation removes your anxieties, whose advice assists your plans, whose cheerfulness dispels your gloom, whose very sight delights you! We should choose from our friends men who are, as far as possible, free from strong desires; for vices are contagious, and pass from a man to his neighbor, and injure those who touch them. As, therefore, in times of pestilence we have to be careful not to sit near people who are infected and in whom the disease is raging, because by so doing, we shall run into danger and catch the plague from their very breath; so, too, in choosing our friends' dispositions, we must take care to select those who are as far as may be unspotted by the world; for the way to breed disease is to mix what is sound with what is rotten. Yet I do not advise you to follow after or to draw to yourself no one except a wise man: for where will you find him who for so many centuries we have sought in vain? in the place of the best possible man take him who is least bad. You would hardly find any time that would have enabled you to make a happier choice than if you could have sought for a good man from among the Platos and Xenophons and the rest of the produce of the brood of Socrates, or if you had been permitted to choose one from the age of Cato: an age which bore many men worthy to be born in Cato's time (just as it also bore many men worse than were ever known before, planners of the blackest crimes: for it needed both classes in order to make Cato under-

stood: it wanted both good men, that he might win their approbation, and bad men, against whom he could prove his strength): but at the present day, when there is such a dearth of good men, you must be less squeamish in your choice. Above all, however, avoid dismal men who grumble at whatever happens, and find something to complain of in everything. Though he may continue loyal and friendly towards you, still one's peace of mind is destroyed by a comrade whose mind is soured and who meets every incident with a groan.

VIII. Let us now pass on to the consideration of property, that most fertile source of human sorrows: for if you compare all the other ills from which we suffer—deaths, sicknesses, fears, regrets, endurance of pains and labors—with those miseries which our money inflicts upon us, the latter will far outweigh all the others. Reflect, then, how much less a grief it is never to have had any money than to have lost it: we shall thus understand that the less poverty has to lose, the less torment it has with which to afflict us: for you are mistaken if you suppose that the rich bear their losses with greater spirit than the poor: a wound causes the same amount of pain to the greatest and the smallest body. It was a neat saying of Bion's, "that it hurts bald men as much as hairy men to have their hairs pulled out": you may be assured that the same thing is true of rich and poor people, that their suffering is equal: for their money clings to both classes, and cannot be torn away without their feeling it: yet it is more endurable, as I have said, and easier not to gain property than to lose it, and therefore you will find that those upon whom Fortune has never smiled are more cheerful than those whom she has deserted. Diogenes, a man of infinite spirit, perceived this, and made it impossible that anything should be taken from him. Call this security from loss, poverty, want, necessity, or any contemptuous name you please: I shall consider such a man to be happy, unless you find me another who can lose nothing. If I am not mistaken, it is a royal attribute among so many misers, sharpers, and robbers, to be the one man who cannot be injured. If any one doubts the happiness of Diogenes, he would doubt whether the position of the immortal gods was one of sufficient happiness, because they have no farms or gardens, no valuable estates let to strange tenants, and no large loans in the money market. Are you not ashamed of yourself, you who gaze upon riches with astonished admiration? Look upon the universe: you will see the gods quite bare of property, and possessing nothing though they give everything. Do you think that this man who has stripped himself of all fortuitous accessories is a pauper, or one like to the immortal

gods? Do you call Demetrius, Pompeius's freedman, a happier man, he who was not ashamed to be richer than Pompeius, who was daily furnished with a list of the number of his slaves, as a general is with that of his army, though he had long deserved that all his riches should consist of a pair of underlings, and a roomier cell than the other slaves? But Diogenes's only slave ran away from him, and when he was pointed out to Diogenes, he did not think him worth fetching back. "It is a shame," he said, "that Manes should be able to live without Diogenes, and that Diogenes should not be able to live without Manes." He seems to me to have said, "Fortune, mind your own business: Diogenes has nothing left that belongs to you. Did my slave run away? nay, he went away from me as a free man." A household of slaves requires food and clothing: the bellies of so many hungry creatures have to be filled: we must buy raiment for them, we must watch their most thievish hands, and we must make use of the services of people who weep and execrate us. How far happier is he who is indebted to no man for anything except for what he can deprive himself of with the greatest ease! Since we, however, have not such strength of mind as this, we ought at any rate to diminish the extent of our property, in order to be less exposed to the assaults of fortune: those men whose bodies can be within the shelter of their armour, are more fitted for war than those whose huge size everywhere extends beyond it, and exposes them to wounds: the best amount of property to have is that which is enough to keep us from poverty, and which yet is not far removed from it.

IX. We shall be pleased with this measure of wealth if we have previously taken pleasure in thrift, without which no riches are sufficient, and with which none are insufficient, especially as the remedy is always at hand, and poverty itself by calling in the aid of thrift can convert itself into riches. Let us accustom ourselves to set aside mere outward show, and to measure things by their uses, not by their ornamental trappings: let our hunger be tamed by food, our thirst quenched by drinking, our lust confined within needful bounds; let us learn to use our limbs, and to arrange our dress and ways of life according to what was approved by our ancestors, not in imitation of new-fangled models: let us learn to increase our continence, to repress luxury, to set bounds to our pride, to assuage our anger, to look upon poverty without prejudice, to practice thrift, albeit many are ashamed to do so, to apply cheap remedies to the wants of nature, to keep all undisciplined hopes and aspirations as it were under lock and key, and to make it our business to get our riches from ourselves and not from

Fortune. We never can so thoroughly defeat the vast diversity and malignity of misfortune with which we are threatened as not to feel the weight of many gusts if we offer a large spread of canvas to the wind: we must draw our affairs into a small compass, to make the darts of Fortune of no avail. For this reason, sometimes slight mishaps have turned into remedies, and more serious disorders have been healed by slighter ones. When the mind pays no attention to good advice, and cannot be brought to its senses by milder measures, why should we not think that its interests are being served by poverty, disgrace, or financial ruin being applied to it? one evil is balanced by another. Let us then teach ourselves to be able to dine without all Rome looking on, to be the slaves of fewer slaves, to get clothes which fulfil their original purpose, and to live in a smaller house. The inner curve is the one to take, not only in running races and in the contests in the circus, but also in the race of life; even literary pursuits, the most becoming thing for a gentlemen to spend money upon, are only justifiable as long as they are kept within bounds. What is the use of possessing numberless books and libraries, whose titles their owners can hardly read through in a lifetime? A student is overwhelmed by such a mass, not instructed, and it is much better to devote yourself to a few writers than to skim through many. Forty thousand books were burned at Alexandria: some would have praised this library as a most noble memorial of royal wealth, like Titus Livius, who says that it was "a splendid result of the taste and attentive care of kings." It had nothing to do with taste or care, but was a piece of learned luxury, nay, not even learend, since they amassed it, not for the sake of learning, but to make a show, like many men who know less about letters than a slave is expected to know, and who uses his books not to help him in his studies but to ornament his dining-room. Let a man, then, obtain as many books as he wants, but none for show. "It is more respectable," say you, "to spend one's money on such books than on vases of Corinthian brass and paintings." Not so: everything that is carried to excess is wrong. What excuses can you find for a man who is eager to buy bookcases of ivory and citrus wood, to collect the works of unknown or discredited authors, and who sits yawning amid so many thousands of books, whose backs' titles please him more than any other part of them? Thus in the houses of the laziest of men you will see the works of all the orators and historians stacked upon book-shelves reaching right up to the ceiling. At the present day a library has become as necessary an appendage to a house as a hot and cold

bath. I would excuse them straightway if they really were carried away by an excessive zeal for literature; but as it is, these costly works of sacred genius, with all the illustrations that adorn them, are merely bought for display and to serve as wall-furniture.

X. Suppose, however, that your life has become full of trouble, and that without knowing what you were doing you have fallen into some snare which either public or private Fortune has set for you, and that you can neither untie it nor break it: then remember that fettered men suffer much at first from the burdens and slogs upon their legs: afterwards, when they have made up their minds not to fret themselves about them, but to endure them, necessity teaches them to bear them bravely, and habit to bear them easily. In every station of life you will find amusements, relaxations, and enjoyments; that is, provided you be willing to make light of evils rather than to hate them. Knowing to what sorrows we were born, there is nothing for which Nature more deserves our thanks than for having invented habit as an alleviation of misfortune, which soon accustoms us to the severest evils. No one could hold out against misfortune if it permanently exercised the same force as at its first onset. We are all chained to Fortune: some men's chain is loose and made of gold, that of others is tight and of meaner metal: but what difference does this make? we are all included in the same captivity, and even those who have bound us are bound themselves, unless you think that a chain on the left side is lighter to bear: one man may be bound by public office, another by wealth: some have to bear the weight of illustrious, some of humble birth: some are subject to the commands of others, some only to their own: some are kept in one place by being banished thither, others by being elected to the priesthood. All life is slavery: let each man therefore reconcile himself to his lot, complain of it as little as possible, and lay hold of whatever good lies within his reach. No condition can be so wretched than an impartial mind can find no compensations in it. Small sites, if ingeniously divided, may be made use of for many different purposes, and arrangement will render ever so narrow a room habitable. Call good sense to your aid against difficulties: it is possible to soften what is harsh, to widen what is too narrow, and to make heavy burdens press less severely upon one who bears them skilfully. Moreover, we ought not to allow our desires to wander far afield, but we must make them confine themselves to our immediate neighborhood, since they will not endure to be altogether locked up. We must leave alone things which either cannot come to

pass or can only be effected with difficulty, and follow after such things as are near at hand and within reach of our hopes, always remembering that all things are equally unimportant, and that though they have a different outward appearance, they are all alike empty within. Neither let us envy those who are in high places: the heights which look lofty to us are steep and rugged. Again, those whom unkind fate has placed in critical situations will be safer if they show as little pride in their proud position as may be, and do all they are able to bring down their fortunes to the level of other men's. There are many who must needs cling to their high pinnacle of power, because they can not descend from it save by falling headlong, yet they assure us that their greatest burden is being obliged to be burdensome to others, and that they are nailed to their lofty post rather than raised to it: let them then, by dispensing justice, clemency, and kindness with an open and liberal hand, provide themselves with assistance to break their fall, and looking forward to this, maintain their position more hopefully. Yet nothing sets us free from these alternations of hope and fear so well as always fixing some limit to our successes, and not allowing Fortune to choose when to stop our career, but to halt of our own accord long before we apparently need do so. By acting thus, certain desires will rouse up our spirits, and yet being confined within bounds, will not lead us to embark on vast and vague enterprises.

XI. These remarks of mine apply only to imperfect, commonplace, and unsound natures, not to the wise man, who needs not to walk with timid and cautions gait: for he has such confidence in himself that he does not hesitate to go directly in the teeth of Fortune, and never will give way to her. Nor indeed has he any reason for fearing her, for he counts not only chattels, property, and high office, but even his body, his eyes, his hands, and everything whose use makes life dearer to us, nay, even his very self, to be things whose possession is uncertain; he lives as though he had borrowed them, and is ready to return them cheerfully whenever they are claimed. Yet he does not hold himself cheap, because he knows that he is not his own, but performs all his duties as carefully and prudently as a pious and scrupulous man would take care of property left in his charge as trustee. When he is bidden to give them up, he will not complain of Fortune, but will say, "I think you for what I have had possession of: I have managed your property so as largely to increase it, but since you order me, I give it back to you and return it willingly and thankfully. If you still wish me to own anything of yours, I will keep it for you:

if you have other views, I restore into your hands and make restitution of all my wrought and coined silver, my house and my household. Should Nature recall what she previously entrusted us with, let us say to her also: 'Take back my spirit, which is better than when you gave it me: I do not shuffle or hang back. Of my own free will I am ready to return what you gave me before I could think: take me away.'" What hardship can there be in returning to the place from whence one came? a man cannot live well if he knows not how to die well. We must, therefore, take away from this commodity its original value, and count the breath of life as a cheap matter. "We dislike gladiators," says Cicero, "if they are eager to save their lives by any means whatever: but we look favorably upon them if they are openly reckless of them." You may be sure that the same thing occurs with us: we often die because we are afraid of death. Fortune, which regards our lives as a show in the arena for her own enjoyment, says, "Why should I spare you, base and cowardly creature that you are? you will be pierced and hacked with all the more wounds because you know not how to offer your throat to the knife: whereas you, who receive the stroke without drawing away your neck or putting up your hands to stop it, shall both live longer and die more quickly." He who fears death will never act as becomes a living man: but he who knows that this fate was laid upon him as soon as he was conceived will live according to it, and by this strength of mind will gain this further advantage, that nothing can befall him unexpectedly: for by looking forward to everything which can happen, as though it would happen to him, he takes the sting out of all evils, which can make no difference to those who expect it and are prepared to meet it: evil only comes hard upon those who have lived without giving it a thought and whose attention has been exclusively directed to happiness. Disease, captivity, disaster, conflagration, are none of them unexpected: I always knew with what disorderly company Nature had associated me. The dead have often been wailed for in my neighborhood: the torch and taper have often been borne past my door before the bier of one who has died before his time: the crash of falling buildings has often resounded by my side: night has snatched away many of those with whom I have become intimate in the forum, the Senate-house, and in society, and has sundered the hands which were joined in friendship: ought I to be surprised if the dangers which have always been circling around me, at last assail me? How large a part of mankind never think of storms when about to set sail? I

shall never be ashamed to quote a good saying because it comes from a bad author. Publilius, who was a more powerful writer than any of our other playwrights, whether comic or tragic, whenever he chose to rise above farcical absurdities and speeches addressed to the gallery, among many other verses too noble even for tragedy, let alone for comedy, has this one:—

"What one has suffered may befal us all."

If a man takes this into his inmost heart and looks upon all the misfortunes of other men, of which there is always a great plenty, in this spirit, remembering that there is nothing to prevent their coming upon him also, he will arm himself against them long before they attack him. It is too late to school the mind to endurance of peril after peril has come. "I did not think this would happen," and "Would you ever have believed that this would have happened?" say you. But why should it not? Where are the riches after which want, hunger, and beggary do not follow? what office is there whose purple robe, augur's staff, and patrician reins have not as their accompaniment rags and banishment, the brand of infamy, a thousand disgraces, and utter reprobation? what kingdom is there for which ruin, trampling under foot, a tyrant and a butcher are not ready at hand? nor are these matters divided by long periods of time, but there is but the space of an hour between sitting on the throne ourselves and clasping knees of some one else as suppliants. Know then that every station of life is transitory, and that what has ever happened to anybody may happen to you also. You are wealthy: are you wealthier than Pompeius? Yet when Gaius, his old relative and new host, opened Caesar's house to him in order that he might close his own, he lacked both bread and water: though he owned so many rivers which both rose and discharged themselves within his dominions, yet he had to beg for drops of water. he perished of hunger and thirst in the palace of his relative, while his heir was contracting for a public funeral for one who was in want of food. You have filled public offices. were they either as important, as unlooked for, or as all-embracing as those of Sejanus? Yet on the day on which the Senate disgraced him, the people tore him to pieces. the executioner could find no part left large enough to drag to the Tiber, of one upon whom gods and men had showered all that could be given to man. You are a king: I will not bid you go to Croesus for an example, he who while yet alive saw his funeral pile both lighted and extinguished, being made to outlive not only his

kingdom but even his own death, nor to Jugurtha, whom the people of Rome beheld as a captive within the year in which they had feared him. We have seen Ptolemaeus, King of Africa, and Mithridates, King of Armenia, under the charge of Gaius's guards: the former was sent into exile, the latter chose it in order to make his exile more honorable. Among such continual topsyturvy changes, unless you expect that whatever can happen will happen to you, you give adversity power against you, a power which can be destroyed by any one who looks at it beforehand.

XII. The next point to these will be to take care that we do not labor for what is vain, or labor in vain: that is to say, neither to desire what we are not able to obtain, nor yet, having obtained our desire too late, and after much toil to discover the folly of our wishes: in other words, that our labor may not be without result, and that the result may not be unworthy of our labor: for as a rule sadness arises from one of these two things, either from want of success or from being ashamed of having succeeded. We must limit the running to and fro which most men practise, rambling about houses, theaters, and market-places. They mind other men's business, and always seem as though they themselves had something to do. If you ask one of them as he comes out of his own door, "Whither are you going?" he will answer, "By Hercules, I do not know: but I shall see some people and do something." They wander purposelessly seeking for something to do, but what has causually fallen in their way. They move uselessly and without any plan, just like ants crawling over bushes, which creep up to the top and then down to the bottom again without gaining anything. Many men spend their lives in exactly the same fashion, which one may call a state of restless indolence. You would pity some of them when you see them running as if their house was on fire: they actually jostle all whom they meet, and hurry along themselves and others with them, though all the while they are going to salute some one who will not return their greeting, or to attend the funeral of some one whom they did not know: they are going to hear the verdict on one who often goes to law, or to see the wedding of one who often gets married: they will follow a man's litter, and in some places will even carry it: afterwards returning home weary with idleness, they swear that they themselves do not know why they went out, or where they have been, and on the following day they will wander through the same round again. Let all your work therefore, have some purpose, and keep some object in view: these restless people are not made

restless by labor, but are driven out of their minds by mistaken ideas: for even they do not put themselves in motion without any hope: they are excited by the outward appearance of something, and their crazy mind cannot see its futility. In the same way every one of those who walk out to swell the crowd in the streets, is led round the city by worthless and empty reasons; the dawn drives him forth, although he has nothing to do, and after he has pushed his way into many men's doors, and saluted their nomenclators one after the other, and been turned away from many others, he finds that the most difficult person of all to find at home is himself. From this evil habit comes that worst of all vices, talebearing and prying into public and private secrets, and the knowledge of many things which it is neither safe to tell nor safe to listen to.

XIII. It was, I imagine, following out this principle that Democritus taught that "he who would live at peace must needs not do much business either public or private," referring of course to unnecessary business: for if there be any necessity for it we ought to transact not only much but endless business, both public and private; in cases, however, where no solemn duty invites us to act, we had better keep ourselves quiet: for he who does many things often puts himself in Fortune's power, and it is safest not to tempt her often, but always to remember her existence, and never to promise oneself anything on her security. I will set sail unless anything happens to prevent me, I shall be prætor, if nothing hinders me, my financial operations will succeed, unless anything goes wrong with them. This is why we say that nothing befalls the wise man which he did not expect—we do not make him exempt from the chances of human life, but from its mistakes, nor does everything happen to him as he wished it would, but as he thought it would: now his first thought was that his purpose might meet with some resistance, and the pain of disappointed wishes must affect a man's mind less severely if he has not been at all events confident of success.

XIV. Moreover, we ought to cultivate an easy temper, and not become over fond of the lot which fate has assigned to us, but transfer ourselves to whatever other condition chance may lead us to, and fear no alteration, either in our purposes or our position in life, provided that we do not become subject to caprice, which of all vices is the most hostile to repose: for obstinacy, from which Fortune often wrings some concession, must needs be anxious and unhappy, but caprice, which can never restrain itself, must be more so. Both of these qualities, both that of altering nothing, and that of being dissatisfied with everything,

are enemies to repose. The mind ought in all cases to be called away from the contemplation of external things to that of itself: let it confide in itself, rejoice in itself, admire its own works; avoid as far as may be those of others, and devote itself to itself; let it not feel losses, and put a good construction even upon misfortunes. Zeno, the chief of our school, when he heard the news of a shipwreck, in which all his property had been lost, remarked, "Fortune bids me follow philosophy in lighter marching order." A tyrant threatened Theodorus with death, and even with want of burial. "You are able to please yourself," he answered, "my half pint of blood is in your power: for, as for burial, what a fool you must be if you suppose that I care whether I rot above ground or under it." Julius Kanus, a man of peculiar greatness, whom even the fact of his having been born in this century does not prevent our admiring, had a long dispute with Gaius, and when, as he was going away that Phalaris of a man said to him, "That you may not delude yourself with any foolish hopes, I have ordered you to be executed," he answered, "I thank you, most excellent prince." I am not sure what he meant: for many ways of explaining his conduct occur to me. Did he wish to be reproachful, and to show him how great his cruelty must be if death became a kindness? or did he upbraid him with his accustomed insanity? for even those whose children were put to death, and whose goods were confiscated, used to thank him: or was it that he willingly received death, regarding it as freedom? Whatever he meant, it was a magnanimous answer. Some one may say, "After this Gaius might have let him live." Kanus had no fear of this: the good faith with which Gaius carried out such orders as these was well known. Will you believe that he passed the ten intervening days before his execution without the slightest despondency? it is marvelous how that man spoke and acted, and how peaceful he was. He was playing at draughts when the centurion in charge of a number of those who were going to be executed bade him join them: on the summons he counted his men and said to his companion, "Mind you do not tell a lie after my death, and say that you won;" then, turning to the centurion, he said, "You will bear me witness that I am one man ahead of him." Do you think that Kanus played upon that draught-board? nay, he played with it. His friends were sad at being about to lose so great a man: "Why," asked he, "are you sorrowful? you are enquiring whether our souls are immortal, but I shall presently know." Nor did he up to the very end cease his search after truth, and raised arguments upon the subject of his own death. His own teacher of philosophy accompanied

him, and they were not far from the hill on which the daily sacrifice to Cæsar, our god, was offered, when he said, "What are you thinking of now, Kanus? or what are your ideas?" "I have decided," answered Kanus, "at that most swiftly-passing moment of all to watch whether the spirit will be conscious of the act of leaving the body." He promised, too, that if he made any discoveries, he would come round to his friends and tell them what the condition of the souls of the departed might be. Here was peace in the very midst of the storm: here was a soul worthy of eternal life, which used its own fate as a proof of truth, which when at the last step of life experimented upon his fleeting breath, and did not merely continue to learn until he died, but learned something even from death itself. No man has carried the life of a philosopher further. I will not hastily leave the subject of a great man, and one who deserves to be spoken of with respect: I will hand thee down to all posterity, thou most noble heart, chief among the many victims of Gaius.

XV. Yet we gain nothing by getting rid of all personal causes of sadness, for sometimes we are possessed by hatred of the human race. When you reflect how rare simplicity is, how unknown innocence, how seldom faith is kept, unless it be to our advantage, when you remember such numbers of successful crimes, so many equally hateful losses and gains of lust, and ambition so impatient even of its own natural limits that it is willing to purchase distinction by baseness, the mind seems as it were cast into darkness, and shadows rise before it as though the virtues were all overthrown and we were no longer allowed to hope to possess them or be benefited by their possession. We ought therefore to bring ourselves into such a state of mind that all the vices of the vulgar may not appear hateful to us, but merely ridiculous, and we should imitate Democritus rather than Heraclitus. The latter of these, whenever he appeared in public, used to weep, the former to laugh: the one thought all human doings to be follies, the other thought them to be miseries. We must take a higher view of all things, and bear with them more easily: it better becomes a man to scoff at life than to lament over it. Add to this that he who laughs at the human race deserves better of it than he who mourns for it, for the former leaves it some good hopes of improvement, while the latter stupidly weeps over what he has given up all hopes of mending. He who after surveying the universe cannot control his laughter shows, too, a greater mind than he who cannot restrain his tears, because his mind is only affected in the slightest possible degree, and he does not think that any

part of all his apparatus is either important, or serious, or unhappy. As for the several causes which render us happy or sorrowful, let every one describe them for himself, and learn the truth of Bion's saying, "That all the doings of men were very like what he began with, and that there is nothing in their lives which is more holy or decent than their conception." Yet it is better to accept public morals and human vices calmly without bursting into either laughter or tears; for to be hurt by the sufferings of others is to be for ever miserable, while to enjoy the sufferings of others is an inhuman pleasure, just as it is a useless piece of humanity to weep and pull a long face because some one is burying his son. In one's own misfortunes, also, one ought so to conduct oneself as to bestow upon them just as much sorrow as reason, not as much as custom requires: for many shed tears in order to show them, and whenever no one is looking at them their eyes are dry, but they think it disgraceful not to weep when every one does so. So deeply has this evil of being guided by the opinion of others taken root in us, that even grief, the simplest of all emotions, begins to be counterfeited.

XVI. There comes now a part of our subject which is wont with good cause to make one sad and anxious: I mean when good men come to bad ends; when Socrates is forced to die in prison, Rutilius to live in exile, Pompeius and Cicero to offer their necks to the swords of their own followers, when the great Cato, that living image of virtue, falls upon his sword and rips up both himself and the republic, one cannot help being grieved that Fortune should bestow her gifts so unjustly: what, too, can a good man hope to obtain when he sees how each of them endured his fate, and if they endured it bravely, long in your heart for courage as great as theirs; if they died in a womanish and cowardly manner, nothing was lost: either they deserved that you should admire their courage, or else they did not deserve that you should wish to imitate their cowardice: for what can be more shameful than that the greatest men should die so bravely as to make people cowards. Let us praise one who deserves such constant praises, and say, "The braver you are the happier you are! You have escaped from prison: the gods have not thought you worthy of ill-fortune, but have thought that fortune no longer deserved to have any power over you": but when any one shrinks back in the hour of death and looks longingly at life, we must lay hands upon him. I will never weep for a man who dies cheerfully, nor for one who dies weeping: the former wipes away my tears, the latter by his tears makes himself unworthy that any should

be shed for him. Shall I weep for Hercules because he was burned alive, or for Regulus because he was pierced by so many nails, or for Cato because he tore open his wounds a second time? All these men discovered how at the cost of a small portion of time they might obtain immortality, and by their deaths gained eternal life.

XVII. It also proves a fertile source of troubles if you take pains to conceal your feelings and never show yourself to any one undisguised, but, as many men do, live an artificial life, in order to impose upon others: for the constant watching of himself becomes a torment to a man, and he dreads being caught doing something at variance with his usual habits, and, indeed, we never can be at our ease if we imagine that every one who looks at us is weighing our real value: for many things occur which strip people of their disguise, however reluctantly they may part with it, and even if all this trouble about oneself is successful, still life is neither happy nor safe when one always has to wear a mask. But what pleasure there is in that honest straight-forwardness which is its own ornament, and which conceals no part of its character? Yet even this life, which hides nothing from any one runs some risk of being despised; for there are people who disdain whatever they come close to: but there is no danger of virtue's becoming contemptible when she is brought near our eyes, and it is better to be scorned for one's simplicity than to bear the burden of unceasing hypocrisy. Still, we must observe moderation in this matter, for there is a great difference between living simply and living slovenly. Moreover, we ought to retire a great deal into ourselves: for association with persons unlike ourselves upsets all that we had arranged, rouses the passions which were at rest, and rubs into a sore any weak or imperfectly healed place in our minds. Nevertheless we ought to mix up these two things, and to pass our lives alternately in solicitude and among throngs of people; for the former will make us long for the society of mankind, the latter for that of ourselves, and the one will counteract the other: solitude will cure us when we are sick of crowds, and crowds will cure us when we are sick of solitude. Neither ought we always to keep the mind strained to the same pitch, but it ought sometimes to be relaxed by amusement. Socrates did not blush to play with little boys, Cato used to refresh his mind with wine after he had wearied it with application to affairs of state, and Scipio would move his triumphal and soldierly limbs to the sound of music, not with a feeble and halting gait, as is the fashion now-a-days, when we sway in our very walk with more than womanly weakness, but dancing as men were wont in

the days of old on sportive and festal occasions, with manly bounds, thinking it no harm to be seen so doing by their enemies. Men's minds ought to have relaxation: they rise up better and more vigorous after rest. We must not force crops from rich fields, for an unbroken course of heavy crops will soon exhaust their fertility, and so also the liveliness of our minds will be destroyed by unceasing labor, but they will recover their strength after a short period of rest and relief: for continuous toil produces a sort of numbness and sluggishness. Men would not be so eager for this, if play and amusement did not possess natural attractions for them, although constant indulgence in them takes away all gravity and all strength from the mind: for sleep, also, is necessary for our refreshment, yet if you prolong it for days and nights together it will become death. There is a great difference between slackening your hold of a thing and letting it go. The founders of our laws appointed festivals, in order that men might be publicly encouraged to be cheerful, and they thought it necessary to vary our labors with amusements, and, as I said before, some great men have been wont to give themselves a certain number of holidays in every month, and some divided every day into play-time and work-time. Thus, I remember that great orator Asinius Pollio would not attend to any business after the tenth hour: he would not even read letters after that time for fear some new trouble should arise, but in those two hours used to get rid of the weariness which he had contracted during the whole day. Some rest in the middle of the day, and reserve some light occupation for the afternoon. Our ancestors, too, forbade any new motion to be made in the Senate after the tenth hour. Soldiers divide their watches, and those who have just returned from active service are allowed to sleep the whole night undisturbed. We must humor our minds and grant them rest from time to time, which acts upon them like food, and restores their strength. It does good also to take walks out of doors, that our spirits may be raised and refreshed by the open air and fresh breeze: sometimes we gain strength by driving in a carriage, by travel, by change of air, or by social meals and a more generous allowance of wine: at times we ought to drink even to intoxication, not so as to drown, but merely to dip ourselves in wine: for wine washes away troubles and dislodges them from the depths of the mind, and acts as a remedy to sorrow as it does to some diseases. The inventor of wine is called Liber, not from the licence which he gives to our tongues, but because he liberates the mind from the bondage of cares, and emancipates it, animates it, and renders it more daring in all that it attempts.

Yet moderation is wholesome both in freedom and in wine. It is believed that Solon and Arcesilaus used to drink deep. Cato is reproached with drunkenness: but whoever casts this in his teeth will find it easier to turn his reproach into a commendation than to prove that Cato did anything wrong: however, we ought not to do it often, for fear the mind should contract evil habits, though it ought sometimes to be forced into frolic and frankness, and to cast off dull sobriety for a while. If we believe the Greek poet, "it is sometimes pleasant to be mad;" again, Plato always knocked in vain at the door of poetry when he was sober; or, if we trust Aristotle, no great genius has ever been without a touch of insanity. The mind cannot use lofty language, above that of the common herd, unless it be excited. When it has spurned aside the commonplace environments of custom, and rises sublime, instinct with sacred fire, then alone can it chant a song too grand for mortal lips: as long as it continues to dwell within itself it cannot rise to any pitch of splendor: it must break away from the beaten track, and lash itself to frenzy, till it gnaws the curb and rushes away bearing up its rider to heights whither it would fear to climb when alone.

I have now, my beloved Serenus, given you an account of what things can preserve peace of mind, what things can restore it to us, what can arrest the vices which secretly undermine it: yet be assured, that none of these is strong enough to enable us to retain so fleeting a blessing, unless we watch over our vacillating mind with intense and unremitting care.

TRANSLATION OF AUBREY STEWART.

PHILO JUDAEUS

As is evident from the writings of Seneca, Epictetus and others, philosophy in the west ceased to be purely speculative, and dealt with moral and religious questions. This tendency toward the moral and religious was strengthened by the spread of Jewish and Christian teachings, together with the development of the Neo-Platonists toward mysticism, and the consequent mingling of western and eastern thought.

Philo Judaeus lived in Alexandria, Egypt, from 20 B. C. to 40 A. D. He was a Jew in religion but a Greek in philosophy, and did much to promote this fusion of thought. The first selection illustrates alike Judaism, Greek philosophy, and allegorical mysticism. The second selection describes the pre-Christian ascetics of Egypt. It is important because it shows that asceticism was common in the deserts of Egypt even before the Christian monks and thus by no means peculiarly Christian.

THE CREATION OF THE WORLD

1. Of other lawgivers, some have set forth what they considered to be just and reasonable, in a naked and unadorned manner, while others, investing their ideas with an abundance of amplification, have sought to bewilder the people, by burying the truth under a heap of fabulous inventions. But Moses, rejecting both of these methods, the

one as inconsiderate, careless, and unphilosophical, and the other as mendacious and full of trickery, made the beginning of his laws entirely beautiful, and in all respects admirable, neither at once declaring what ought to be done or the contrary, nor (since it was necessary to mould beforehand the dispositions of those who were to use his laws) inventing fables himself or adopting those which had been invented by others.

And his exordium, as I have already said, is most admirable; embracing the creation of the world, under the idea that the law corresponds to the world and the world to the law, and that a man who is obedient to the law, being, by so doing, a citizen of the world, arranges his actions with reference to the intention of nature, in harmony with which the whole universal world is regulated. Accordingly no one, whether poet or historian, could ever give expression in an adequate manner to the beauty of his ideas respecting the creation of the world; for they surpass all the power of language, and amaze our hearing, being too great and venerable to be adapted to the senses of any created being. That, however, is not a reason for our yielding to indolence on the subject, but rather from our affection for the Deity we ought to endeavor to exert ourselves even beyond our powers in describing them: not as having much, or indeed anything to say of our own, but instead of much, just a little, such as it may be probable that human intellect may attain to, when wholly occupied with a love of and desire for wisdom.

For as the smallest seal receives imitations of things of colossal magnitude when engraved upon it, so perchance in some instances the exceeding beauty of the description of the creation of the world as recorded in the Law, overshadowing with its brilliancy the souls of those who happen to meet with it, will be delivered to a more concise record after these facts have been first premised which it would be improper to pass over in silence.

II. For some men, admiring the world itself rather than the Creator of the world, have represented it as existing without any maker, and eternal; and as impiously as falsely have represented God as existing in a state of complete inactivity, while it would have been right on the other hand to marvel at the might of God as the creator and father of all, and to admire the world in a degree not exceeding the bounds of moderation.

But Moses, who had early reached the very summits of philosophy, and who had learnt from the oracles of God the most numerous and important of the principles of nature, was well aware that it is indis-

pensable that in all existing things there must be an active cause, and a passive subject; and that the active cause is the intellect of the universe, thoroughly unadulterated and thoroughly unmixed, superior to virtue and superior to science, superior even to abstract good or abstract beauty; while the passive subject is something inanimate and incapable of motion by any intrinsic power of its own, but having been set in motion, and fashioned, and endowed with life by the intellect, became transformed into that most perfect work, this world. And those who describe it as being uncreated, do, without being aware of it, cut off the most useful and necessary of all the qualities which tend to produce piety, namely, providence: for reason proves that the father and creator has a care for that which has been created; for a father is anxious for the life of his children, and a workman aims at the duration of his works, and employs every device imaginable to ward off everything that is pernicious or injurious, and is desirous by every means in his power to provide everything which is useful or profitable for them. But with regard to that which has not been created, there is no feeling of interest as if it were his own in the breast of him who has not created it.

It is then a pernicious doctrine, and one for which no one should contend, to establish a system in this world, such as anarchy is in a city, so that it should have no superintendent, or regulator, or judge, by whom everything must be managed and governed.

But the great Moses, thinking that a thing which has not been uncreated is as alien as possible from that which is visible before our eyes (for everything which is the subject of our senses exists in birth and in changes, and is not always in the same condition), has attributed eternity to that which is invisible and discerned only by our intellect as a kinsman and a brother, while of that which is the object of our external senses he had predicated generation as an appropriate description. Since, then, this world is visible and the object of our external senses, it follows of necessity that it must have been created; on which account it was not without a wise purpose that he recorded its creation, giving a very venerable account of God.

III. And he says that the world was made in six days, not because the Creator stood in need of a length of time (for it is natural that God should do everything at once, not merely by uttering a command, but by even thinking of it); but because the things created required arrangement; and number is akin to arrangement; and, of all numbers, six is, by the laws of nature, the most productive: for of all the num-

bers, from the unit upwards, it is the first perfect one, being made equal to its parts, and being made complete by them; the number three being half of it, and the number two a third of it, and the unit a sixth of it, and, so to say, it is formed so as to be both male and female, and is made up of the power of both natures; for in existing things the odd number is the male, and the even number is the female; accordingly, of odd numbers the first is the number three, and of even numbers the first is two, and the two numbers multiplied together make six. It was fitting, therefore, that the world, being the most perfect of created things, should be made according to the perfect number, namely, six: and, as it was to have in it the causes of both, which arise from combination, that it should be formed according to a mixed number, the first combination of odd and even numbers, since it was to embrace the character both of the male who sows the seed, and of the female who receives it. And he allotted each of the six days to one of the portions of the whole, taking out the first day, which he does not even call the first day, that it may not be numbered with the others, but entitling it one, he names it rightly, perceiving in it, and ascribing to it the nature and appellation of the unit.

IV. We must mention as much as we can of the matters contained in his account, since to enumerate them all is impossible; for he embraces that beautiful world which is perceptible only by the intellect, as the account of the first day will show: for God, apprehending beforehand, as a God must do, that there could not exist a good imitation without a good model, and that the things perceptible to the external senses nothing could be faultless which was not fashioned with reference to some archetypal idea conceived by the intellect, when he had determined to create this visible world, previously formed that one which is perceptible only by the intellect, in order that so using an incorporeal model formed as far as possible on the image of God, he might then make this corporeal world, a younger likeness of the elder creation, which should embrace as many different genera perceptible to the external senses, as the other world contains of those which are visible only to the intellect.

But that world which consists of ideas, it were impious in any degree to attempt to describe or even to imagine: but how it was created, we shall know if we take for our guide a certain image of the things which exist among us.

When any city is founded through the exceeding ambition of some king or leader who lays claim to absolute authority, and is at the same

time a man of brilliant imagination, eager to display his good fortune, then it happens at times that some man coming up who, from his education, is skillful in architecture, and he, seeing the advantageous character and beauty of the situation, first of all sketches out in his own mind nearly all the parts of the city which is about to be completed—the temples, the gymnasia, the prytanea, the markets, the harbor, the docks, the streets, the arrangement of the walls, the situations of the dwelling houses, and of the public and other buildings. Then, having received in his own mind, as on a waxen tablet, the form of each building, he carries in his heart the image of a city, perceptible as yet only by the intellect, the images of which he stirs up in memory which is innate in him, and, still further, engraving them in his mind like a good workman, keeping his eyes fixed on his model, he begins to raise the city of stones and wood, making the corporeal substances to resemble each of the incorporeal ideas. Now we must form a somewhat similar opinion of God, who, having determined to found a mighty state, first of all conceived its form in his mind, according to which form he made a world perceptible only by the intellect, and then completed one visible to the external senses, using the first one as a model.

V. As therefore the city, when previously shadowed out in the mind of the man of architectural skill had no external place, but was stamped solely in the mind of the workman, so in the same manner neither can the world which existed in ideas have had any other local position except the divine reason which made them; for what other place could there be for his powers which should be able to receive and contain, I do not say all, but even any single one of them whatever, in its simple form? And the power and faculty which could be capable of creating the world, has for its origin that good which is founded on truth; for if any one were desirous to investigate the cause on account of which this universe was created, I think that he would come to no erroneous conclusion if he were to say as one of the ancients did say: "That the Father and Creator was good; on which account he did not grudge the substance a share of his own excellent nature, since it had nothing good in itself, but was able to become everything." For the substance was of itself destitute of arrangement, of equality, of animation, of distinctive character, and full of all disorder and confusion; and it received a change and transformation to what is opposite to this condition, and most excellent, being invested with order, quality, animation, resemblance, identity, arrangement, harmony, and everything which belongs to the more excellent idea.

VI. And God, not being urged on by any prompter (for who else could there have been to prompt him?) but guided by his own sole will, decided that it was fitting to benefit with unlimited and abundant favors a nature which, without the divine gift, was unable of itself to partake of any good thing; but he benefits it, not according to the greatness of his own graces, for they are illimitable and eternal, but according to the power of that which is benefited to receive his graces. For the capacity of that which is created to receive benefits does not correspond to the natural power of God to confer them; since his powers are infinitely greater, and the thing created being not sufficiently powerful to receive all their greatness would have sunk under it, if he had not measured his bounty, allotting to each, in due proportion, that which was poured upon it. And if any one were to desire to use more undisguised terms, he would not call the world, which is perceptible only to the intellect, any thing else but the reason of God, already occupied in the creation of the world; for neither is a city, while only perceptible to the intellect, anything else but the reason of the architect, who is already designing to build one perceptible to the external senses, on the model of that which is so only to the intellect—this is the doctrine of Moses, not mine. Accordingly he, when recording the creation of man, in words which follow, asserts expressly, that he was made in the image of God—and if the image be a part of the image, then manifestly so is the entire form, namely, the whole of this world perceptible by the external senses, which is a greater imitation of the divine image than the human form is. It is manifest also, that the archetypal seal, which we call that world which is perceptible only to the intellect, must itself be the archetypal model, the idea of ideas, the Reason of God.

VII. Moses says also, "In the beginning God created the heaven and the earth:" taking the beginning to be, not as some men think, that which is according to time; for before the world time had no existence, but was created either simultaneously with it, or after it; for since time is the interval of the motion of the heavens, there could not have been any such thing as motion before there was anything which could be moved; but it follows of necessity that it received existence subsequently or simultaneously. It therefore follows also of necessity, that time was created either at the same moment with the world, or later than it—and to venture to assert that it is older than the world is absolutely inconsistent with philosophy. But if the beginning spoken of by Moses is not to be looked upon as spoken of according to time, then it may be natural that to suppose that it is the beginning according to number

that is indicated; so that, "In the beginning he created," is equivalent to "first of all he created the heaven;" for it is natural in reality that that should have been the first object created, being both the best of all created things, and also made of the purest substance, because it was destined to be the most holy abode of the visible gods who are perceptible by the external senses; for if the Creator had made everything at the same moment, still those things which were created in beauty would no less have had a regular arrangement, for there is no such thing as beauty in disorder. But order is a due consequence and connection of things precedent and subsequent, if not in the completion of a work, at all events in the intention of the maker; for it is owing to order that they become accurately defined and stationary, and free from confusion.

In the first place therefore, from the model of the world, perceptible only by intellect, the Creator made an incorporeal heaven, and an invisible earth, and the form of air and of empty space: the former of which he called darkness, because the air is black by nature; and the other he called the abyss, for empty space is very deep and yawning with immense width. Then he created the incorporeal substance of water and of air, and above all he spread light, being the seventh thing made; and this again was incorporeal, and a model of the sun, perceptible only to intellect, and of all the lightgiving stars, which are destined to stand together in heaven.

VIII. And air and light he considered worthy of the pre-eminence. For the one he called the breath of God, because it is air, which is the most life-giving of things, and of life the causer is God; and the other he called light, because it is surpassingly beautiful: for that which is percepible only by the intellect is as far more brilliant and splendid than that which is seen, as I conceive, the sun is than darkness, or day than night, or the intellect than any other of the outward senses by which men judge (inasmuch as it is the guide of the entire soul), or the eyes than any other part of the body. And the invisible divine reason, perceptible only by intellect, he calls the image of God. And the image of this image is that light, perceptible only by the intellect, which is the image of the divine reason, which has explained its generation. And it is a star above the heavens, the source of those stars which are perceptible by the external senses, and if any one were to call it universal light, he would not be very wrong; since from that the sun and the moon, and all the other planets and fixed stars derive their due light, in proportion as each has power given it; that unmingled and pure light being obscured when it begins to change, according to the change from

that which is perceptible by the external senses; for none of those things which are perceptible to the external senses is pure.

IX. Moses is right also when he says, that "darkness was over the face of the abyss." For the air is in a manner spread above the empty space, since having mounted up it entirely fills all that open, and desolate, and empty place, which reaches down to us from the regions below the moon. And after the shining forth of that light, perceptible only to the intellect, which existed before the sun, then its adversary darkness yielded, as God put a wall between them and separated them, well knowing their opposite characters, and the enmity existing between their natures. In order, therefore, that they might not war against one another from being continually brought in contact, so that war would prevail instead of peace, God, turning want of order into order, did not only separate light and darkness, but did also place boundaries in the middle of the space between the two, by which he separated the extremities of each. For if they had approximated they must have produced confusion, preparing for the contest, for the supremacy, with great and unextinguishable rivalry, if boundaries established between them had not separated them and prevented them from clashing together, and these boundaries are evening and morning; the one of which heralds in the good tidings that the sun is about to rise, gently dissipating the darkness: and evening comes on as the sun sets, receiving gently the collective approach of darkness. And these, I mean morning and evening, must be placed in the class of incorporeal things, perceptible only by the intellect; for there is absolutely nothing in them which is perceptible by the external senses, but they are entirely ideas, and measures and forms, and seals, incorporeal as far as regards the generation of other bodies. But when light came, and darkness retreated and yielded to it and boundaries were set in the space between the two, namely, evening and morning, then of necessity the measure of time was immediately perfected, which also the Creator called "day;" and it is spoken of thus, on account of the single nature of the world perceptible only by the intellect, which has a single nature.

X. The incorporeal world then was already completed, having its seat in the Divine Reason: and the world, perceptible by the external senses, was made on the model of it; and the first portion of it, being also the most excellent of all made by the Creator, was the heaven, which he truly called the firmament, as being corporeal; for the body is by nature firm, inasmuch as it is divisible into three parts; and what other idea of solidity and of body can there be, except that it is something which may

be measured in every direction? Therefore, he very naturally contrasting that which was perceptible to the external senses, and corporeal with that which was perceptible only by the intellect and incorporeal, called this the firmament. Immediately afterwards he, with great propriety and entire correctness, called it the heaven, either because it was already the boundary of everything, or because it was the first of all visible things which was created; and after its second rising he called the time day, referring the entire space and measure of a day to the heaven, on account of its dignity and honor among the things perceptible to the external senses.

XI. And after this, as the whole body of water in existence was spread over all the earth, and had penetrated through all its parts, as if it were a sponge which had imbibed moisture, so that the earth was only swampy land and deep mud, both the elements of earth and water being mixed up and combined together, like one confused mass into one undistinguishable and shapeless nature, God ordained that all the water which was salt, and destined to be a cause of barrenness to seeds and trees should be gathered together, flowing forth out out of all the holes of the entire earth; and he commanded dry land to appear, that liquid which had any sweetness in it being left in it to secure its durability. For this sweet liquid, in due proportions, is as a sort of glue for the different substances, preventing the earth from being utterly dried up, and so becoming unproductive and barren, and causing it, like a mother, to furnish not only one kind of nourishment, namely meat, but both sorts at once, so as to supply its offspring with both meat and drink: wherefore he filled it with veins, resembling breasts, which, being provided with openings, were destined to pour forth springs and rivers. And in the same way he extended the invisible irrigations of dew pervading every portion of arable and deep-soiled land, to contribute to the most liberal and plenteous supply of fruits. Having arranged these things, he gave them names, calling the dry, "land," and the water which was separated from it, he called "sea."

PRE-CHRISTIAN ASCETICS

HAVING MENTIONED the Essenes, who in all respects selected for their admiration and for their especial adoption the practical course of life, and who excel in all, or what perhaps may be a less unpopular and invidious thing to say, in most of its parts, I will now proceed, in the regular order of my subject, to speak of those who have embraced the speculative life, and I will say what appears to me to be desirable to be said on the subject, not drawing any fictitious statements from my own head for the sake of improving the appearance of that side of the question which nearly all poets and essayists are much accustomed to do in the scarcity of good actions to extol, but with the greatest simplicity adhering strictly to the truth itself, to which I know well that even the most eloquent men do not keep close in their speeches.

Nevertheless we must make the endeavor and labor to attain to this virtue; for it is not right that the greatness of the virtue of the men should be a cause of silence to those who do not think it right that anything which is creditable should be suppressed in silence; but the deliberate intention of the philosopher is at once displayed from the appellation given to them: for with strict regard to etymology, they are called therapeutæ and therapeutrides, either because they profess an art of medicine more excellent than that in general use in cities (for that only heals bodies, but the other heals souls which are under the mastery of terrible and almost incurable diseases, which pleasures and appetites, fears and griefs, and covetousness, and follies, and injustice, and all the rest of the innumerable multitude of other passions and vices, have inflicted upon them), or else because they have been instructed by nature and the sacred laws to serve the living God, who is superior to the good, and more simple than the one, and more ancient than the unit; with whom, however, who is there of those who profess piety that we can possibly compare? Can we compare those who honor the elements, earth, water, air, and fire? to whom different nations have given names, calling fire Hephæstus, I imagine because of its kindling, and the air Hera, I imagine because of its being raised up, and raised aloft to a great height, and water Poseidon, probably because of its being drink-

able, and the earth Demeter, because it appears to be the mother of all plants and of all animals.

II. But since these men infect not only their fellow countrymen, but all that come near them with folly, let them remain uncovered, being mutilated in the most indispensable of all the outward senses, namely, sight. I am speaking here, not of the sight of the body, but of that of the soul, by which alone truth and falsehood are distinguished from one another. But the therapeutic sect of mankind, being continually taught to see without interruption, may well aim at obtaining a sight of the living God, and may pass by the sun, which is visible to the outward sense, and never leave this order which conducts to perfect happiness. But they who apply themselves to this kind of worship, not because they are influenced to do so by custom, nor by the advice or recommendation of any particular persons, but because they are carried away by a certain heavenly love, give way to enthusiasm, behaving like so many revellers in bachanalian or corybantian mysteries, until they see the object which they have been earnestly desiring.

Then, because of their anxious desire for an immortal and blessed existence, thinking that their mortal life has already come to an end, they leave their possessions to their sons or daughters, or perhaps to other relations, giving them up their inheritance with willing cheerfulness: and those who know no relations give their property to their companions or friends, for it followed of necessity that those who have acquired the wealth which sees, as if ready prepared for them, should be willing to surrender that wealth which is blind to those who themselves also are still blind in their minds.

When, therefore, men abandon their property without being influenced by any predominant attraction, they flee without even turning their heads back again, deserting their brethren, their children, their wives, their parents, their numerous families, their affectionate bands of companions, their native lands in which they have been born and brought up, though long familiarity is a most attractive bond, and one very well able to allure any one. And they depart, not to another city as those do who entreat to be purchased from those who at present possess them, being either unfortunate or else worthless servants, and as such seeking a change of masters rather than endeavoring to procure freedom (for every city, even that which is under the happiest laws, is full of indescribable tumults, and disorders, and calamities, which no one would submit to who had been even for a moment under the influence of wisdom), but they take up their abode outside of walls, or gardens, or soli-

tary lands, seeking for a desert place, not because of any ill-natured misanthropy to which they have learned to devote themselves, but because of the associations with people of wholly dissimilar dispositions to which they would otherwise be compelled, and which they know to be unprofitable and mischievous.

III. Now this class of persons may be met with in many places, for it was fitting that both Greece and the country of the barbarians should partake of whatever is perfectly good; and there is the greatest number of such men in Egypt, in every one of the districts, or nomi, as they are called, and especially around Alexandria; and from all quarters those who are the best of these therapeutæ proceed on their pilgrimage to some most suitable place as if it were their country, which is beyond the Mareotic lake, lying in a somewhat level plain a little raised above the rest, being suitable for their purpose by reason of its safety and also of the fine temperature of the air.

For the houses built in the fields and the villages which surround it on all sides give it safety; and the admirable temperature of the air proceeds from the continual breezes which come from the lake which falls into the sea, and also from the sea itself in the neighborhood, the breezes from the sea being light, and those which proceed from the lake which falls into the sea being heavy, the mixture of which produces a most healthy atmosphere.

But the houses of these men thus congregated together are very plain, just giving shelter in respect of the two things most important to be provided against, the heat of the sun, and the cold from the open air; and they did not live near to one another as men do in cities, for immediate neighborhood to others would be a troublesome and unpleasant thing to men who have conceived an admiration for, and have determined to devote themselves to, solitude; and, on the other hand, they did not live very far from one another on account of the fellowship which they desire to cultivate, and because of the desirableness of being able to assist one another of they should be attacked by robbers.

And in every house there is a sacred shrine which is called the holy place, and the monastery in which they retire by themselves and perform all the mysteries of a holy life, bringing in nothing, neither meat, nor drink, nor anything else which is indispensable towards supplying the necessities of the body, but studying in that place the laws and the sacred oracles of God enunciated by the holy prophets, and hymns, and psalms, and all kinds of other things by reason of which knowledge and piety are increased and brought to perfection.

Therefore they always retain an imperishable recollection of God, so that not even in their dreams is any other subject ever presented to their eyes except the beauty of the divine virtues and of the divine powers. Therefore many persons speak in their sleep, divulging and publishing the celebrated doctrines of the sacred philosophy. And they are accustomed to pray twice a day, at morning and at evening; when the sun is rising entreating God that the happiness of the coming day may be real happiness, so that their minds may be filled with heavenly light, and when the sun is setting they pray that their soul, being entirely lightened and relieved of the burden of the outward senses, and of the appropriate object of these outward senses, may be able to trace out trust existing in its own consistory and council chamber. And the interval between morning and evening is by them devoted wholly to meditation on and to practice virtue, for they take up the sacred scriptures and philosophy concerning them, investigating the allegories as symbols of some secret meaning of nature, intended to be conveyed in those figurative expressions.

They have also writings of ancient men, who having been the founders of one sect or another, have left behind them many memorials of the allegorical system of writing and explanation, whom they take as a kind of model, and imitate the general fashion of their sect; so that they do not occupy themselves solely in contemplation, but they likewise compose psalms and hymns to God in every kind of metre and melody imaginable, which they of necessity arrange in more dignified rhythm. Therefore, during six days, each of these indivdiuals, retiring into solitude by himself, philosophises by himself in one of the places called monasteries, never going outside the threshold of the outer court, and indeed never even looking out.

But on the seventh day they all come together as if to meet in a sacred assembly, and they sit down in order according to their ages with all becoming gravity, keeping their hands inside their garments, having their right hand between their chest and their dress, and the left hand down by their side, close to their flank; and then the eldest of them who has the most profound learning in their doctrines comes forward and speaks with steadfast look and with steadfast voice, with great powers of reasoning, and great prudence, not making an exhibition of his oratorical powers like the rhetoricians of old, or the sophists of the present day, but investigating with great pains, and explaining with minute accuracy the precise meaning of the laws, which sits, not indeed at the tips of their ears, but penetrates through their hearing into the soul, and

remains there lastingly; and all the rest listen in silence to the praises which he bestows upon the law, showing their assent only by nods of the head, or the eager look of the eyes.

And this common holy place to which they all come together on the seventh day is a twofold circuit, being separated partly into the apartment of the men, and partly into a chamber for the women, for women also, in accordance with the usual fashion there, form a part of the audience, having the same feelings of admiration as the men, and having adopted the same sect with equal deliberation and decision; and the wall which is between the houses rises from the ground three or four cubits upwards, like a battlement, and the upper portion rises upwards to the roof without any opening, on two accounts; first of all, in order that the modesty which is so becoming to the female sex may be preserved, and secondly, that the women may be easily able to comprehend what is said, being seated within earshot, since there is then nothing which can possibly intercept the voice of him who is speaking.

IV. And these expounders of the law, having first of all laid down temperance as a sort of foundation for the soul to rest upon, proceed to build up other virtues on this foundation, and no one of them may take any meat or drink before the setting of the sun, since they judge that the work of philosophising is one which is worthy of the light, but that the care of the necessities of the body is suitable only to darkness, on which account they appropriate the day to the one occupation, and a brief portion of the night to the other; and some men, in whom there is implanted a more fervent desire of knowledge, can endure to cherish a recollection of their food for three days without even tasting it, and some men are so delighted, and enjoy themselves so exceedingly when regaled by wisdom which supplies them with her doctrines in all possible wealth and abundance, that they can even hold out twice as great a length of time, and will scarcely at the end of six days taste even necessary food, being accustomed, as they say that grasshoppers are, to feed on air, their song as I imagine, making their scarcity tolerable to them.

And they, looking upon the seventh day as one of perfect holiness and a most complete festival, have thought it worthy of a most especial honor, and on it, after taking due care of their soul, they tend their bodies also, giving them, just as they do to their cattle, a complete rest from their continual labors; and they eat nothing of a costly character, but plain bread and a seasoning of salt, which the more luxurious of them do further season with hyssop; and their drink is water from the spring; for they oppose those feelings which nature has made mistresses

of the human race, namely, hunger and thirst, giving them nothing to flatter or humor them, but only such useful things as it is not possible to exist without. On this account they eat only so far as not to be hungry, and they drink just enough to escape from thirst, avoiding all satiety, as an enemy of and a plotter against both soul and body.

And there are two kinds of covering, one raiment and the other a house: we have already spoken of their houses, that they are not decorated with any ornaments, but run up in a hurry, being only made to answer such purposes as are absolutely necessary; and in like manner their raiment is of the most ordinary description, just stout enough to ward off cold and heat, being a cloak of some shaggy hide for winter, and a thin mantle or linen shawl in the summer; for in short they practice entire simplicity, looking upon falsehood as the foundation of pride, but truth is the origin of simplicity, and upon truth and falsehood as standing in the light of fountains, for from falsehood proceeds every variety of evil and wickedness, and from truth there flows every imaginable abundance of good things both human and divine.

TRANSLATION OF C. D. YONGE.

PLUTARCH

PLUTARCH was born of a wealthy family in Boeotia at Chaeronea about 50 B. C. Part of his life seems to have been spent at Rome, but he seems to have returned to Greece and died there about 120 B. C. But little further is known of his life.

He was one of the greatest biographers the world has ever known, while his moral essays show wide learning and considerable depth of contemplation. In the second volume we included his description of Spartan customs, while we give below his essay on education.

THE TRAINING OF CHILDREN

1. THE COURSE that ought to be taken for the training of free-born children, and the means whereby their manners may be rendered virtuous, will, with the reader's leave, be the subject of our present disquisition.

2. In the management of which, perhaps it may be expedient to take our rise from their very procreation. I would therefore, in the first place, advise those who desire to become the parents of famous and eminent children, that they keep not company with all women that they light on; I mean such as harlots, or concubines. For such children as are blemished in their birth, either by the father's or the mother's side, are liable to be pursued, as long as they live, with the indeliable infamy

of their base extraction, as that which offers a ready occasion to all that desire to take hold of it of reproaching and disgracing them therewith.

> Misfortune on that family's entailed,
> Whose reputation in its founder failed.

Wherefore, since to be well born gives men a good stock of confidence, the consideration thereof ought to be of no small value to such as desire to leave behind them a lawful issue. For the spirits of men who are alloyed and counterfeit in their birth are naturally enfeebled and debased; as rightly said the poet again,—

> A bold and daring spirit is oft daunted,
> When with the guilt of parents' crimes 'tis haunted.

So, on the contrary, a certain loftiness and natural gallantry of spirit is wont to fill the breasts of those who are born of illustrious parents. Of which Diaphantus, the young son of Themistocles, is a notable instance; for he is reported to have made his boast often and in many companies, that whatsoever pleased him pleased also all Athens; for whatever he liked, his mother liked; and whatever his mother liked, Themistocles liked; and whatever Themistocles liked, all the Athenians liked. Wherefore it was gallantly done of the Lacedaemonian States, when they laid a round fine on their king Archidamus for marrying a little woman, giving this reason for their so doing: that he meant to beget for them not kings, but kinglings.

3. The advice which I am, in the next place, about to give, is, indeed, no other than what hath been given by those who have undertaken this argument before me. You will ask me what is that? It is this: that no man keep company with his wife for issue's sake but when he is sober, having drunk either no wine, or at least not such a quantity as to distemper him; for they usually prove wine-bibbers and drunkards, whose parents begot them when they were drunk. Wherefore Diogenes said to a stripling somewhat crack-brained and half-witted: Surely, young man, thy father begot thee when he was drunk. Let this suffice to be spoken concerning the procreation of children; and let us pass thence to their education.

4. And here, to speak summarily, what we are wont to say of arts and sciences may be said also concerning virtue: that there is a concurrence of three things requisite to the completing them in practice—which are nature, reason and use. Now by reason here I would be un-

derstood to mean learning; and by use, exercise. Now the principles come from instruction, the practice comes from exercise, and perfection from all three combined. And accordingly as either of the three is deficient, virtue must needs be defective. For if virtue is not improved by instruction, it is blind; if instruction is not assisted by nature, it is maimed; and if exercise fail of the assistance of both, it is imperfect as to the attainment of its end. And as in husbandry it is first requisite that the soil be fertile, next that the husbandman be skilful, and lastly that the seed he sows be good; so here nature resembles the soil, the instructor of youth the husbandman, and the rational principles and precepts which are taught, the seed. And I would per-emptorily affirm that all these met and jointly conspired to the completing of the souls of those universally celebrated men, Pythagoras, Socrates, and Plato, together with all others whose eminent worth hath begotten them immortal glory. And happy is that man certainly, and well-beloved of the Gods, on whom by the bounty of any of them all these are conferred.

And yet if any one thinks that those in whom Nature hath not thoroughly done her part may not in some measure make up her defects, if they be so happy as to light upon good teaching, and withal apply their own industry towards the attainment of virtue, he is to know that he is very much, nay, altogether, mistaken. For as a good natural capacity may be impaired by slothfulness, so dull and heavy natural parts may be improved by instruction; and whereas negligent students arrive not at the capacity of understanding the most easy things, those who are industrious conquer the greatest difficulties. And many instances we may observe, that give us a clear demonstration of the mighty force and successful efficacy of labor and industry. For water continually dropping will wear out hard rocks hollow; yea, iron and brass are worn out with constant handling. Nor can we, if we would, reduce the felloes of a cart-wheel to their formed straightness, when once they have been bent by force; yea, it is above the power of force to straighten the bended staves sometimes used by actors upon the stage. So far is that which labor effects, though against nature, more potent than what is produced according to it. Yea, have we not many millions of instances more which evidence the force of industry? Let us see in some few that follow. A man's ground is of itself good; yet, if it be unmanured, it will contract barrenness; and the better it was naturally, so much the more is it ruined by carelessness, if it be ill-husbanded. On the other side, let a man's ground be more than ordinarily rough and rugged; yet experience tells us that, if it be well manured, it will be quickly made

capable of bearing excellent fruit. Yea, what sort of tree is there which will not, if neglected, grow crooked and unfruitful; and what but will, if rightly ordered, prove faithful and bring its fruit to maturity? What strength of body is there which will not lose its vigor and fall to decay by laziness, nice usage, and debauchery? And, on the contrary, where is the man of never so crazy a natural constitution, who can not render himself far more robust, if he will only give himself to exercise activity and strength? What horse well managed from a colt proves not easily governable by the rider? And where is there one to be found which, if not broken betimes, proves not stiff-necked and unmanageable? Yea, why need we wonder at anything else when we see the wildest beasts made tame and brought to hand by industry? And lastly, as to men themselves, that Thessalian answered not amiss, who, being asked which of his countrymen were the meekest, replied: Those that have received their discharge from the wars.

But what need of multiplying more words in this matter, when even the notion of the word *athos* in the Greek language imports continuance, and he that should call moral virtues customary virtues would seem to speak not incongruously? I shall conclude this part of my discourse, therefore, with the addition of one only instance. Lycurgus, the Lacedaemonian lawgiver, once took two whelps of the same litter, and ordered them to be bred in quite a different manner; whereby one became dainty and ravenous, and the other of a good scent and skilled in hunting; which done, a while after he took occasion thence in an assembly of the Lacedaemonians to discourse in this manner: Of great weight in the attainment of virtue, fellow-citizens, are habits, instruction, precepts, and indeed the whole manner of life—as I will presently let you see by example. And, withal, he ordered the producing those two whelps into the midst of the hall, where also there were set down before them a plate and a live hare. Whereupon, as they had been bred, the one presently flies upon the hare, and the other as greedily runs to the plate. And while the people were musing, not perfectly apprehending what he meant by producing those whelps thus, he added: These whelps were both of one litter, but differently bred; the one, you see, has turned out a greedy cur, and the other a good hound. And this shall suffice to be spoken concerning custom and different ways of living.

5. The next thing that falls under our consideration is the nursing of children, which, in my judgment, the mothers should do themselves, giving their own breast to those they have borne. For this office will certainly be performed with more tenderness and carefulness by natural

mothers, who will love their children intimately, as the saying is, from their tender nails. Whereas, both wet and dry nurses, who are hired, love only for their pay, and are affected to their work as ordinarily those that are substituted and deputed in the place of others are. Yea, even Nature seems to have assigned the suckling and nursing of the issue to those that bear them: for which cause she hath bestowed upon every living creature that brings forth young, milk to nourish them withal. And, in conformity thereto, Providence hath only wisely ordered that women should have two breasts, that so, if any of them should happen to bear twins, they might have two several springs of nourishment ready for them. Though, if they had not that furniture, mothers would still be more kind and loving to their own children. And that not without reason; for constant feeding together is a great means to heighten the affection mutually betwixt any persons. Yea, even beasts, when they are separated from those that have grazed with them, do in their way show a longing for the absent. Wherefore, as I have said, mothers themselves should strive to the utmost to nurse their own children. But if they find it impossible to do it themselves, either because of bodily weakness (and such a case may fall out), or because they are apt to be quickly with child again, then are they to chose the honestest nurses they can get, and not to take whomsoever they have offered them. And the first thing to be looked after in this choice is, that the nurse be bred after the Greek fashion. For as it is needful that the members of children be shaped aright as soon as they are born, that they may not afterwards prove crooked and distorted, so it is no less expedient that their manners be well fashioned from the very beginning. For childhood is a tender thing, and easily wrought into any shape. Yea, and the very souls of children readily receive the impressions of those things that are dropped into them while they are yet but soft; but when they grow older, they will, as all hard things are, be more difficult to be wrought upon. And as soft wax is apt to take the stamp of the seal, so are the minds of children to receive the instructions imprinted on them at that age. Whence, also, it seems to me good advice which divine Plato gives to nurses, not to tell all sorts of common tales to children in infancy, lest thereby their minds should chance to be filled with foolish and corrupt notions. The like good counsel Phocylides, the poet, seems to give in this verse of his:

> If we'll have virtuous children, we should choose
> Their tenderest age good principles to infuse.

6. Nor are we to omit taking due care, in the first place, that those children who are appointed to attend upon such young nurslings, and to be bred with them for play-fellows, be well-mannered, and next that they speak plain, natural Greek; lest, being constantly used to converse with persons of a barbarous language and evil manners, they receive corrupt tinctures from them. For it is a true proverb, that if you live with a lame man, you will learn to halt.

7. Next, when a child is arrived at such an age as to be put under the care of pedagogues, great care is to be used that we be not deceived in them, and so commit our children to slaves or barbarians or cheating fellows. For it is a course never enough to be laughed at which many men nowadays take in this affair; for if any of their servants be better than the rest, they dispose some of them to follow husbandry, some to navigation, some to merchandise, some to be stewards in their houses, and some, lastly, to put out their money to use for them. But if they find any slave that is a drunkard or a glutton, and unfit for any other business, to him they assign the government of their children; whereas, a good pedagogue ought to be such a one in his disposition as Phoenix, tutor to Achilles, was.

And now I come to speak of that which is a greater matter, and of more concern thon any that I have said. We are to look after such masters for our children as are blameless in their lives, not justly reprovable for their manners, and of the best experience in teaching. For the very spring and root of honesty and virtue lies in the felicity of lighting on good education. And as husbandmen are wont to set forks to prop up feeble plants, so do honest schoolmasters prop up youth by careful instructions and admonitions, that they may duly bring forth the buds of good manners. But there are certain fathers nowadays who deserve that men should spit on them in contempt, who, before making any proof of those to whom they design to commit the teaching of their children, either through unacquaintance, or, as it sometimes falls out, through unskilfulness, intrust them to men of no good reputation, or, it may be, such as are branded with infamy. Although they are not altogether so ridiculous, if they offend herein through unskilfulness; but it is a thing most extremely absurd, when, as oftentimes it happens, though they know they are told beforehand, by those who understand better than themselves, both of the inability and rascality of certain schoolmasters, they nevertheless commit the charge of their children to them, sometimes overcome by their fair and flattering speeches, and sometimes prevailed on to gratify friends who entreat

them. This is an error of like nature with that of the sick man, who, to please his friends, forbears to send for the physician that might save his life by his skill, and employs a mountebank that quickly dispatches him out of the world; or of his who refuses a skilful shipmaster, and then, at his friend's entreaty, commits the care of his vessel to one that is therein much his inferior. In the name of Jupiter and all the gods, tell me how can that man deserve the name of a father, who is more concerned to gratify others in their requests, than to have his children well educated. Or, is it not rather fitly applicable to this case, which Socrates, that ancient philosopher, was wont to say—that, if he could get up to the highest place in the city, he would lift up his voice and make this proclamation thence: "What mean you, fellow-citizens, that you thus turn every stone to scrape wealth together, and take so little care of your children, to whom, one day, you must relinquish it all?"—to which I would add this, that such parents do like him that is solicitous about his shoe, but neglects the foot that is to wear it. And yet many fathers there are, who so love their money and hate their children, that, lest it should cost them more than they are willing to spare to hire a good schoolmaster for them, they rather choose such persons to instruct their children as they are worth; thereby beating down the market, that they may purchase ignorance cheap. It was, therefore, a witty and handsome jeer which Aristippus bestowed on a sottish father, who asked him what he would take to teach his child. He answered, A thousand drachmas. When the other cried out: Oh, Hercules, what a price you ask! for I can buy a slave at that rate. Do so, then, said the philosopher, and thou shalt have two slaves instead of one—thy son for one, and him thou buyest for another. Lastly, how absurd it is, when thou accustomest thy children to take their food with their right hands, and chidest them if they receive it with their left, yet thou takest no care at all that the principles that are infused into them be right and regular.

And now I will tell you what ordinarily is like to befall such prodigious parents, when they have their sons ill nursed and worse taught. For when such sons are arrived at man's estate, and, through contempt of a sound and orderly way of living, precipitate themselves into all manner of disorderly and servile pleasures, then will those parents dearly repent of their own neglect of their children's education, when it is too late to amend; and vex themselves, even to distraction, at their vicious courses. For then do some of those children acquaint themselves with flatterers and parasites, a sort of infamous

and execrable persons, the very pests that corrupt and ruin young men; others waste their substance; others, again, come to shipwreck on gaming and revelling. And some venture on still more audacious crimes, committing adultery and joining in the orgies of Bacchus, being ready to purchase one bout of debauched pleasure at the price of their lives. If now they had but conversed with some philosopher, they would never have enslaved themselves to such courses as these; though possibly they might have learned at least to put in practice the precepts of Diogenes, delivered by him indeed in rude language, but yet containing, as to the scope of it, a great truth, when he advised a young man to go to the public stews, that he might then inform himself, by experience, how things of great value and things of no value at all were there of equal worth.

8. In brief therefore I say (and what I say may justly challenge the repute of an oracle rather than of advice), that the one chief thing in that matter—which compriseth the beginning, middle and end of all—is good education and regular instruction; and that these two afford great help and assistance toward the attainment of virtue and felicity. For all other good things are but human and of small value, such as will hardly recompense the industry required to the getting of them. It is, indeed, a desirable thing to be well descended; but the glory belongs to our ancestors. Riches are valuable; but they are the goods of Fortune, who frequently takes them from those that have them, and carries them to those that never so much as hoped for them. Yea, the greater they are, the fairer mark they are for those to aim at who design to make our bags their prize; I mean evil servants and accusers. But the weightiest consideration of all is, that riches may be enjoyed by the worst as well as the best of men. Glory is a thing deserving respect, but unstable; beauty is a prize that men fight to obtain, but, when obtained, it is of little continuance; health is a precious enjoyment, but easily impaired; strength is a thing desirable, but apt to be the prey of disease and old age. And, in general, let any man who values himself upon strength of body know that he makes a great mistake; for what indeed is any proportion of human strength, if compared to that of other animals, such as elephants and bulls and lions? But learning alone, of all things in our possession, is immortal and divine. And two things there are that are most peculiar to human nature, reason and speech; of which two, reason is the master of speech, and speech is the servant of reason, impregnable against all assaults of fortune, not to be taken away by false accusation, nor impaired by sickness, nor enfee-

bled by old age. For reason alone grows youthful by age; and time, which decays all other things before it carries them away with it, leaves learning alone behind. Whence the answer seems to me very remarkable, which Stilpo, a philosopher of Megara, gave to Demetrius, who, when he levelled that city to the ground and made the citizens bondsmen, asked Stilpo whether he had lost anything. Nothing, he said, for war cannot plunder virtue. To this saying that of Socrates also is very agreeable; who, when Gorgias (as I take it) asked him what his opinion was of the king of Persia, and whether he judged him happy, returned answer, that he could not tell what to think of him, because he knew not how he was furnished with virtue and learning—as judging human felicity to consist in those endowments, and not in those which are subject to fortune.

9. Moreover, as it is my advice to parents that they make the breeding up of their children to learning the chiefest of their care, so I here add, that the learning they ought to train them up unto should be sound and wholesome, and such as is most remote from those trifles which suit the popular humor. For to please the many is to displease the wise. To this saying to mine Euripides himself bears witness:

> I'm better skilled to treat a few, my peers,
> Than in a crowd to tickle vulgar ears;
> Though others have the luck on't, when they babble
> Most to the wise, then most to please the rabble.

Besides, I find by my own observation, that those persons who make it their business to speak so as to deserve the favor and approbation of the scum of the people, ordinarily live at a suitable rate, voluptuously and intemperately. And there is reason for it. For they who have no regard to what is honest, so they may make provision for other men's pleasures, will surely not be very propense to prefer what is right and wholesome before that which gratifies their own inordinate pleasures and luxurious inclinations, and to quit that which humors them for that which restrains them.

If any one ask what the next thing is wherein I would have children instructed, and to what further good qualities I would have them insured, I answer, that I think it advisable that they neither speak nor do anything rashly; for, according to the proverb, the best things are the most difficult. But extemporary discourses are full of much ordinary and loose stuff, nor do such speakers well know where to begin or where to make an end. And besides other faults which those who

speak suddenly are commonly guilty of, they are commonly liable to this great one, that they multiply words without measure; whereas, premeditation will not suffer a man to enlarge his discourse beyond a due proportion. To this purpose it is reported of Pericles, that, being often called upon by the people to speak, he would not, because (as he said) he was unprepared. And Demosthenes also, who imitated him in the managery of public affairs, when the Athenians urged him to give his counsel, refused it with this answer: I have not yet prepared myself. Though it may be that this story is a mere fiction, brought down to us by uncertain tradition, without any credible author. But Demosthenes, in his oration against Midias, clearly sets forth the usefulness of premeditation. For there he says: "I confess, O ye Athenians! that I came hither provided to speak; and I will by no means deny that I have spent my utmost study upon the composing this oration. For it had been a pitiful omission in me, if, having suffered and still suffering such things, I should have neglected that which in this cause was to be spoken by me." But here I would not be understood altogether to condemn all readiness to discourse extempore, nor yet to allow the use of it upon such occasions as do not require it; but we are to use it only as we do physic. Still, before a person arrives at complete manhood, I would not permit him to speak upon any sudden incident occasion; though, after he has attained a radicated faculty of speaking, he may allow himself a greater liberty, as opportunity is offered. For as they who have been a long time in chains, when they are at last set at liberty, are unable to walk, on account of their former continual restraint, and are very apt to trip, so they who have been used to a fettered way of speaking a great while, if upon any occasion they be enforced to speak on a sudden, will hardly be able to express themselves without some tokens of their former confinement. But to permit those that are yet children to speak extemporally is to give them occasion for extremely idle talk. A wretched painter, they say, showing Apelles a picture, told him withal that he had taken a very little time to paint it. If thou hadst not told me so, said Apelles, I see cause enough to believe it was a hasty draught; but I wonder that in that space of time thou hast not painted many more such pictures.

I advise therefore (for I return now to the subject that I have digressed from) the shunning and avoiding, not merely of a starched, theatrical, and over-tragical form of speaking, but also of that which is too low and mean. For that which is too swelling is not fit for the managery of public affairs; and that, on the other side, which is too thin is

very inapt to work any notable impression upon the hearers. For as it is not only requisite that a man's body be healthy, but also that it be of a firm constitution, so ought a discourse to be not only sound, but nervous also. For though such as is composed cautiously may be commended, yet that is all it can arrive at; whereas that which hath some adventurous passages in it is admired also. And my opinion is the same concerning the affections of the speaker's mind. For he must be neither of a too confident nor of a too mean and dejected spirit; for the one is apt to lead to impudence, the other to servility; and much of the orator's art, as well as great circumspection, is required to direct his course skilfully betwixt the two.

And now (whilst I am handling this point concerning the instruction of children) I will also give you my judgment concerning the frame of a discourse; which is this, that to compose it in all parts uniformly not only is a great argument of a defect in learning, but also is apt, I think, to nauseate the auditory when it is practised; and in no case can it give lasting pleasure. For to sing the same tune, as the saying is, is in everything cloying and offensive; but men are generally pleased with variety, as in speeches and pageants, so in all other entertainments.

10. Wherefore, though we ought not to permit an ingenious child entirely to neglect any of the common sorts of learning, so far as they may be gotten by lectures or from public shows; yet I would have him to salute these only as in his passage, taking a bare taste of each of them (seeing no man can possibly attain to perfection in all), and to give philosophy the pre-eminence of them all. I can illustrate my meaning by an example. It is a fine thing to sail around and visit many cities, but it is profitable to fix our dwelling in the best. Witty also was the saying of Bias, the philosopher, that, as the wooers of Penelope, when they could not have their desire of the mistress, contented themselves to have to do with her maids, so commonly those students who are not capable of understanding philosophy waste themselves in the study of those sciences that are of no value. Whence it follows, that we ought to make philosophy the chief of all our learning. For though, in order to the welfare of the body, the industry of men hath found out two arts, —medicine, which assists to the recovery of lost health, and gymnastics, which help us to attain a sound constitution,—yet there is but one remedy for the distempers and diseases of the mind, and that is philosophy. For by the advice and assistance thereof it is that we come to understand what is honest, and what dishonest; what is just, and what unjust; in a word, what we are to seek, and what to avoid. We learn

by it how we are to demean ourselves towards the gods, towards our parents, our elders, the laws, strangers, governors, friends, wives, children, and servants. That is, we are to worship the gods, to honor our parents, to reverence our elders, to be subject to the laws, to obey our governors, to love our friends, to use sobriety towards our wives, to be affectionate to our children, and not to treat our servants insolently; and (which is the chiefest lesson of all) not to be overjoyed in prosperity nor too much dejected in adversity; not to be dissolute in our pleasures, nor in our anger to be transported with brutish rage and fury. These things I account the principal advantages which we gain by philosophy. For to use prosperity generously is the part of a man; to manage it so as to decline envy, of a well governed man; to master our pleasures by reason is the property of wise men; and to moderate anger is the attainment only of extraordinary men. But those of all men I count most complete, who know how to mix and temper the managery of civil affairs with philosophy; seeing they are thereby masters of two of the greatest good things that are,—a life of public usefulness as statesmen, and a life of calm tranquility as students of philosophy. For, whereas there are three sorts of lives,—the life of action, the life of contemplation, and the life of pleasure,—the man who is utterly abandoned and a slave to pleasure is brutish and mean-spirited; he that spends his time in contemplation without action is an unprofitable man; and he that lives in action and is destitute of philosophy is a rustical man, and commits many absurdities. Wherefore we are to apply our utmost endeavor to enable ourselves for both; that is, to manage public employments, and withal, at convenient seasons, to give ourselves to philosophical studies. Such statesmen were Pericles and Archytas the Tarentine; such were Dion the Syracusan and Epaminondas the Theban, both of whom were of Plato's familiar acquaintance.

I think it not necessary to spend many more words about this point, the instruction of children in learning. Only it may be profitable at least, or even necessary, not to omit procuring for them the writings of ancient authors, but to make such a collection of them as husbandmen are wont to do of all needful tools. For of the same nature is the use of books to scholars, as being the tools and instruments of learning, and withal enabling them to derive knowledge from its proper fountains.

11. In the next place, the exercise of the body must not be neglected; but children must be sent to schools of gymnastics, where they may have sufficient employment that way also. This will conduce partly to a more handsome carriage, and partly to the improvement of

their strength. For the foundation of a vigorous old age is a good constitution of the body in childhood. Wherefore, as it is expedient to provide those things in fair weather which may be useful to the mariners in a storm, so is it to keep good order and govern ourselves by rules of temperance in youth, as the best provision we can lay in for age. Yet must they husband their strength, so as not to become dried up (as it were) and destitute of strength to follow their studies. For, according to Plato, sleep and weariness are enemies to the arts.

But why do I stand so long on these things? I hasten to speak of that which is of the greatest importance, even beyond all that has been spoken of; namely, I would have boys trained for the contests of wars by practice in the throwing of darts, shooting of arrows, and hunting of wild beasts. For we must remember in war the goods of the conquered are proposed as rewards to the conquerors. But war does not agree with a delicate habit of body, used only to the shade; for even one lean soldier that hath been used to military exercises shall overthrow whole troops of mere wrestlers who know nothing of war. But, somebody may say, whilst you profess to give precepts for the education of all free-born children, why do you carry the matter so as to seem only to accommodate those precepts to the rich, and neglect to suit them also to the children of poor men and plebeians? To which objection it is no difficult thing to reply. For it is my desire that all children whatsoever may partake of the benefit of education alike; but if yet any persons, by reason of the narrowness of their estates, can not make use of my precepts, let them not blame me that give them, for Fortune, which disableth them from making the advantage by them they otherwise might. Though even poor men must use their utmost endeavor to give their children the best education; or, if they can not, they must bestow upon them the best that their abilities will reach. Thus much I thought fit here to insert in the body of my discourse, that I might the better be enabled to annex what I have yet to add concerning the right training of children.

12. I say now, that children are to be won to follow liberal studies by exhortations and rational motives, and on no account to be forced thereto by whipping or any other contumelious punishments. I will not argue that such usage seems to be more agreeable to slaves than to ingenuous children; and even slaves, when thus handled, are dulled and discouraged from the performance of their tasks, partly by reason of the smart of their stripes, and partly because of the disgrace thereby inflicted. But praise and reproof are more effectual upon free-born

children than any such disgraceful handling; the former to incite them to what is good, and the latter to restrain them from that which is evil. But we must use reprehensions and commendations alternately, and of various kinds according to the occasion; so that when they grow petulant, they may be shamed by reprehension, and again, when they better deserve it, they may be encouraged by commendations. Wherein we ought to imitate nurses, who, when they have made their infants cry, stop their mouths with the nipple to quiet them again. It is also useful not to give them such large commendations as to puff them up with pride; for this is the ready way to fill them with a vain conceit of themselves, and to enfeeble their minds.

13. Moreover, I have seen some parents whose too much love to their children hath occasioned, in truth, their not loving them at all. I will give light to this assertion by an example, to those who ask what it means. It is this: while they are over-hasty to advance their children in all sorts of learning beyond their equals, they set them too hard and laborious tasks, whereby they fall under discouragement; and this, with other inconveniences accompanying it, causeth them in the issue to be ill affected to learning itself. For as plants by moderate watering are nourished, but with over-much moisture are glutted, so is the spirit improved by moderate labors, but overwhelmed by such as are excessive. We ought therefore to give children some time to take breath from their constant labors, considering that all human life is divided betwixt business and relaxation. To which purpose it is that we are inclined by nature not only to wake, but to sleep also; that as we have sometimes wars, so likewise at other times peace; so some foul, so other fair days; and, as we have seasons of important business, so also the vacation times of festivals. And, to contract all in a word, rest is the sauce of labor. Nor is it thus in living creatures only, but in things inanimate too. For even in bows and harps, we loosen their strings, that we may bend and wind them up again. Yea, it is universally seen that, as the body is maintained by repletion and evacuation, so is the mind by employment and relaxation.

Those parents, moreover, are to be blamed who, when they have committed their sons to the care of pedagogues or schoolmasters, never see or hear them perform their tasks; wherein they fail much of their duty. For they ought, ever and anon, after the intermission of some days, to make trial of their children's proficiency; and not intrust their hopes of them to the discretion of a hireling. For even that sort of men will take more care of the children, when they know that they are regul-

arly to be called to account. And here the saying of the king's groom is very applicable, that nothing made the horse so fat as the king's eye.

But we must most of all exercise and keep in constant employment the memory of children; for that is, as it were, the storehouse of all learning. Wherefore the mythologists have made Mnemosyne, or Memory, the mother of the Muses, plainly intimating thereby that nothing doth so beget or nourish learning as memory. Wherefore we must employ it to both those purposes, whether the children be naturally apt or backward to remember. For so shall we both strengthen it in those to whom Nature in this respect hath been bountiful, and supply that to others wherein she hath been deficient. And as the former sort of boys will thereby come to excel others, so will the latter sort excel themselves. For that of Hesiod was well said,—

> Oft little add to little, and the account
> Will swell: heapt atoms thus produce a mount.

Neither, therefore, let the parents be ignorant of this, that the exercising of memory in the schools doth not only give the greatest assistance towards the attainment of learning, but also to all the actions of life. For the remembrance of things past affords us examples in our consults about things to come.

14. Children ought to be made to abstain from speaking filthily, seeing, as Democritus said, words are but the shadows of actions. They are, moreover, to be instructed to be affable and courteous in discourse. For as churlish manners are always detestable, so children may be kept from being odious in conversation, if they will not be pertinaciously bent to maintain all they say in dispute. For it is of use to a man to understand not only how to overcome, but also how to give ground when to conquer would turn to his disadvantage. For there is such a thing sometimes as a Cadmean victory; which the wise Euripides attesteth, when he saith,—

> Where two discourse, if the one's anger rise,
> The man who lets the contest fall is wise.

Add we now to these things some others of which children ought to have no less, yea, rather greater care; to-wit, that they avoid luxurious living, bridle their tongues, subdue anger, and refrain their hands. Of how great moment each of these counsels is, I now come to inquire; and we may best judge of them by examples. To begin with the last: some men there have been, who, by opening their hands to take what

they ought not, have lost all the honor they got in the former part of their lives. So Gylippus the Lacedaemonian, for unsewing the public money-bags, was condemned to banishment from Sparta. And to be able also to subdue anger is the part of a wise man. Such a one was Socrates; for when a hectoring and debauched young man rudely kicked him, so that those in his company, being sorely offended, were ready to run after him and call him to account for it, What, said he to them, if an ass had kicked me, would you think it handsomely done to kick him again? And yet the young man himself escaped not unpunished; for when all persons reproached him for so unworthy an act, and gave him the nickname of *Laktistes,* or the kicker, he hanged himself. The same Socrates,—when Aristophanes, publishing his play which he called the Clouds, therein threw all sorts of the foulest reproaches upon him, and a friend of his, who was present at the acting of it, repeated to him what was there said in the same comical manner, asking him withal, Does not this offend you, Socrates?—replied: Not at all, for I can as well bear with a fool in a play as at a great feast. And something of the same nature is reported to have been done by Archytas of Tarentum and Plato. Archytas, when, upon his return from the war, wherein he had been a general, he was informed that his land had been impaired by his bailiff's negligence, sent for him, and said only thus to him when he came: If I were not very angry with thee, I would severely correct thee. And Plato, being offended with a gluttonous and debauched servant, called to him Speusippus, his sister's son, and said unto him: Go beat thou this fellow; for I am too much offended with him to do it myself.

These things, you will perhaps say, are very difficult to be imitated. I confess it; but yet we must endeavor to the utmost of our power, by setting such examples before us, to repress the extravagancy of our immoderate, furious anger. For neither are we able to rival the experience or virtue of such men in many other matters; but we do, nevertheless, as sacred interpreters of divine mysteries and priests of wisdom, strive to follow these examples, and, as it were, to enrich ourselves with what we can nibble from them.

And as to the bridling of the tongue, concerning which also I am obliged to speak, if any man think it a small matter or of mean concernment, he is much mistaken. For it is a point of wisdom to be silent when occasion requires, and better than to speak, though never so well. And, in my judgment, for this reason the ancients instituted mystical rites of initiation in religion, that, being in them accustomed to silence,

we might thence transfer the fear we have of the gods to the fidelity required in human secrets. Yea, indeed, experience shows that no man ever repented of having kept silence; but many that they have not done so. And a man may, when he will, easily utter what he hath by silence concealed; but it is impossible for him to recall what he hath once spoken. And, moreover, I can remember infinite examples that have been told me of those that have procured great damages to themselves by intemperance of the tongue: one or two of which I will give, omitting the rest. When Ptolemaeus Philadelphus had taken his sister Arsinoe to wife, Sotades for breaking an obscene jest upon him lay languishing in prison a great while; a punishment which he deserved for his unseasonable babbling, whereby to provoke laughter in others he purchased a long time of mourning to himself. Much after the same rate, or rather still worse, did Theocritus the Sophist both talk and suffer. For when Alexander commanded the Grecians to provide him a purple robe, wherein, upon his return from the wars, he meant to sacrifice to the Gods in gratitude for his victorious success against the barbarians, and the various states were bringing in the sums assessed upon them, Theocritus said: I now see clearly that this is what Homer calls purple death, which I never understood before. By which speech he made the king his enemy from that time forwards. The same person provoked Antigonus, the king of Macedonia, to great wrath, by reproaching him with his defect, as having but one eye. Thus it was. Antigonus commanded Eutropion, his master-cook, (then in waiting), to go to this Theocritus and settle some accounts with him. And when he announced his errand to Theocritus, and called frequently about the business, the latter said: I know that thou hast a mind to dish me up raw to that Cyclops; thus reproaching at once the king with the want of his eye, and the cook with his employment. To which Eutropion replied: Then thou shalt lose thy head, as the penalty of thy loquacity and madness. And he was as good as his word; for he departed and informed the king, who sent and put Theocritus to death.

Besides all these things, we are to accustom children to speak the truth, and to account it, as indeed it is, a matter of religion for them to do so. For lying is a servile quality, deserving the hatred of all mankind; yea, a fault for which we ought not to forgive our meanest servants.

14. Thus far have I discoursed concerning the good-breeding of children, and the sobriety requisite to that age, without any hesitation or doubt in my own mind concerning any thing that I have said. But in

what remains to be said, I am dubious and divided in my own thoughts, which, as if they were laid in a balance, sometimes incline this, and sometimes that way. I am therefore loath to persuade or dissuade in the matter. But I must venture to answer one question, which is this: whether we ought to admit those that make love to our sons to keep them company, or whether we should not rather thrust them out of doors, and banish them from their society. For when I look upon those straightforward parents, of a harsh and austere temper, who think it an outrage not to be endured that their sons should have anything to say to lovers, I am tender of being the persuader or encourager of such a practice. But, on the other side, when I call to mind Socrates, and Plato, and Xenophon, and Aeschines, and Cebes, with an whole troop of other such men, who have approved those masculine loves, and still have brought up young men to learning, public employments, and virtuous living, I am again of another mind, and am much influenced by my zeal to imitate such great men. And the testimony also of Euripides is favorable to their opinion, when he says,—

> Another love there is in mortals found;
> The love of just and chaste and virtuous souls.

And yet I think it not improper here to mention withal that saying of Plato, spoken betwixt jest and earnest, that men of great eminence must be allowed to show affection to what beautiful objects they please. I would decide then that parents are to keep off such as make beauty the object of their affection, and admit altogether such as direct the love to the soul; whence such loves are to be avoided as are in Thebes and Elis, and that sort which in Crete they call ravishment; and such are to be imitated as are in Athens and Sparta.

16. But in this matter let every man follow his own judgment. Thus far have I discoursed concerning the right ordering and decent carriage of children. I will now pass thence, to speak somewhat concerning the next age, that of youth. For I have often blamed the evil custom of some, who commit their boys in childhood to pedagogues and teachers, and then suffer the impetuosity of their youth to range without restraint; whereas boys of that age need to be kept under a stricter guard than children. For who does not know that the errors of childhood are small, and perfectly capable of being amended; such as slighting their pedagogues, or disobedience to their teachers' instructions. But when they begin to grow towards maturity, their offences are oftentimes very great and heinous; such as gluttony, pilfering money from

their parents, dicing, revelings, drunkenness, courting of maidens, and defiling of marriage-beds. Wherefore it is expedient that such impetuous heats should with great care be kept under and restrained. For the ripeness of that age admits no bounds in its pleasures, is skittish, and needs a curb to check it; so that those parents who do not hold in their sons with great strength about that time find to their surprise that they are giving their vicious inclinations full swing in the pursuit of the vilest actions. Wherefore it is a duty incumbent upon wise parents, in that age especially, to set a strict watch upon them, and to keep them within the bounds of sobriety by instructions, threatenings, entreaties, counsels, promises, and by laying before them examples of those men (on one side) who by immoderate love of pleasures have brought themselves into great mischief, and of those (on the other hand) who by abstinence in the pursuit of them have purchased to themselves very great praise and glory. For these two things (hope of honor, and fear of punishment) are, in a sort, the first elements of virtue; the former whereof spurs men on more eagerly to the pursuit of honest studies, while the latter blunts the edge of their inclinations to vicious courses.

17. And in sum, it is necessary to restrain young men from the conversation of debauched persons, lest they take infection from their evil examples. This was taught by Pythagoras in certain enigmatical sentences, which I shall here relate and expound, as being greatly useful to further virtuous inclinations. Such are these. Taste not of fish that have black tails; that is, converse not with men that are smutted with vicious qualities. Stride not over the beam of the scales; wherein he teacheth us the regard we ought to have for justice, so as not to go beyond its measures. Sit not on a choenix; wherein he forbids sloth, and requires us to take care to provide ourselves with the necessaries of life. Do not strike hands with every man; he means we ought not to be over hasty to make acquaintances or friendships with others. Wear not a tight string; that is, we are to labor after a free and independent way of living, and to submit to no fetters. Stir not up the fire with a sword; signifying that we ought not to provoke a man more when he is angry already (since this is a most unseemly act), but we should rather comply with him while his passion is in its heat. Eat not thy heart; which forbids to afflict our souls, and waste them with vexatious cares. Abstain from beans; that is, keep out of public offices, for anciently the choice of the officers of state was made by beans. Put not food in a chamber-pot; wherein he declares that elegant discourse ought not to be put into an impure mind; for discourse is the food of the mind,

which is rendered unclean by the foulness of the man who receives it. When men are arrived at the goal, they should not turn back; that is, those who are near the end of their days, and see the period of their lives approaching, ought to entertain it contentedly, and not to be grieved at it.

But to return from this digression,—our children, as I have said, are to be debarred the company of all evil men, but especially flatterers. For I would still affirm what I have often said in the presence of divers fathers, that there is not a more pestilent sort of men than these, nor any that more certainly and speedily hurry youth into precipices. Yea, they utterly ruin both fathers and sons, making the old age of the one and the youth of the other full of sorrow, while they cover the hook of their evil counsels with the unavoidable bait of voluptuousness. Parents, when they have good estates to leave their children, exhort them to sobriety, flatterers to drunkenness; parents exhort to continence, these to lasciviousness; parents to good husbandry, these to prodigality; parents to industry, these to slothfulness. And they usually entertain them with such discourses as these: The whole life of man is but a point of time; let us enjoy it therefore while it lasts, and not spend it to no purpose. Why should you so much regard the displeasure of your father?—an old doting fool, with one foot already in the grave, and 'tis to be hoped it will not be long ere we carry him thither altogether. And some of them there are who procure young men foul harlots, yea, prostitute wives to them; and they even make a prey of those things which the careful fathers have provided for the sustenance of their old age. A cursed tribe! True friendship's hypocrites, they have no knowledge of plain dealing and frank speech. They flatter the rich, and despise the poor; and they seduce the young, as by a musical charm. When those who feed them begin to laugh, then they grin and show their teeth. They are mere counterfeits, bastard pretenders to humanity, living at the nod and beck of the rich; free by birth, yet slaves by choice, who always think themselves abused when they are not so, because they are not supported in idleness at others' cost. Wherefore, if fathers have any care for the good breeding of their children, they ought to drive such foul beasts as these out of doors. They ought also to keep them from the companionship of vicious school-fellows, for these are able to corrupt the most ingenuous dispositions.

18. These counsels which I have now given are of great worth and importance; what I have now to add touches certain allowances

that are to be made to human nature. Again therefore I would not have fathers of an over-rigid and harsh temper, but so mild as to forgive some slips of youth, remembering that they themselves were once young. But as physicians are wont to mix their bitter medicines with sweet syrups, to make what is pleasant a vehicle for what is wholesome, so should fathers temper the keenness of their reproofs with lenity. They may occasionally loosen the reins, and allow their children to take some liberties they are inclined to, and again, when it is fit, manage them with a straighter bridle. But chiefly should they bear their errors without passion, if it may be; and if they chance to be heated more than ordinary, they ought not to suffer the flame to burn long. For it is better that a father's anger be hasty than severe; because the heaviness of his wrath, joined with unplacableness, is no small argument of hatred towards the child. It is good also not to discover the notice they take of divers faults, and to transfer to such cases that dimness of sight and hardness of hearing that are wont to accompany old age; so as sometimes not to hear what they hear, nor to see what they see, of their children's miscarriages. We use to bear with some failings in our friends, and it is no wonder if we do the like to our children, especially when we sometimes overlook drunkenness in our very servants. Thou hast at times been too straight-handed to thy son; make him at other whiles a larger allowance. Thou hast, it may be been too angry with him; pardon him the next fault to make him amends. He hath made use of a servant's wit to circumvent thee in something; restrain thy anger. He hath made bold to take a yoke of oxen out of the pasture, or he hath come home smelling of his yesterday's drink; take no notice of it; and if of ointments too, say nothing. For by this means the wild colt sometimes is made more tame. Besides, for those who are intemperate in their youthful lusts, and will not be amended by reproof, it is good to provide wives; for marriage is the strongest bond to hamper wild youth withal. But we must take care that the wives we procure for them be neither of too noble a birth nor of too great a portion to suit their circumstances; for it is a wise saying, drive on your own track. Whereas men that marry women very much superior to themselves are not so truly husbands to their wives, as they are unawares made slaves to their portions. I will add a few words more, and put an end to these advices. The chiefest thing that fathers are to look to is, that they themselves become effectual examples to their children, by doing all those things which belong to them and avoiding all vicious practices, that in their lives, as in a glass,

their children may see enough to give them an aversion to all ill words and actions. For those that chide children for such faults as they themselves fall into unconsciously accuse themselves, under their children's names. And if they are altogether vicious in their own lives, they lose the right of reprehending their very servants, and much more do they forfeit it towards their sons. Yea, what is more than that, they make themselves even counsellors and instructors to them in wickedness. For where old men are impudent, there of necessity must the young men be so too. Wherefore we are to apply our minds to all such practices as may conduce to the good breeding of our children. And here we may take example from Eurydice of Hierapolis, who, although she was an Illyrian, and so thrice a barbarian, yet applied herself to learning when she was well advanced in years, that she might teach her children. Her love towards her children appears evidently in this Epigram of hers, which she dedicated to the Muses:—

> Eurydice to the Muses here doth raise
> This monument, her honest love to praise;
> Who her grown sons that she might scholars breed,
> Then well in years, herself first learned to read.

And thus have I finished the precepts which I designed to give concerning this subject. But that they should all be followed by any one reader is rather, I fear, to be wished than hoped. And to follow the greater part of them, though it may not be impossible to human nature, yet will need a concurrence of more than ordinary diligence joined with good fortune.

TRANSLATION OF SIMON FORD.

EPICTETUS

Epictetus was born in Phrygia in the latter half of the first century A. D., and died about the end of the first quarter of the next century. He was first the slave of Nero's freedman, Epaphroditus. Origen writes that when Epaphroditus was torturing him, Epictetus said calmly, "You will break my leg," and when it broke, just as quietly, "Didn't I tell you?" He was freed, and lived in Rome until Domitian banished the philosophers in 94 A. D., when he returned to Greece. He lived into Hadrian's reign which began 117 A. D.

Epictetus was a stoic. He probably wrote nothing, but his talks were preserved by his disciple Arrian. We give below his exposition of some of the most typical of the stoic beliefs.

DISCOURSES

OF THE THINGS WHICH ARE IN OUR POWER, AND NOT IN OUR POWER

Of all the faculties (except that which I shall soon mention), you will find not one which is capable of contemplating itself, and, consequently, not capable either of approving or disapproving. How far does the grammatic art possess the contemplating power? As far as forming a judgment about what is written and spoken. And

how far music? As far as judging about melody. Does either of them then contemplate itself? By no means. But when you must write something to your friend, grammar will tell you what words you should write; but whether you should write or not, grammar will not tell you. And so it is with music as of musical sounds; but whether you should sing at the present time and play on the lute, or do neither, music will not tell you. What faculty then will tell you? That which contemplates both itself and all other things. And what is this faculty? The rational faculty; for this is the only faculty that we have received which examines itself, what it is, and what power it has, and what is the value of this gift, and examines all other faculties: for what else is there which tells us that golden things are beautiful, for they do not say so themselves? Evidently it is the faculty which is capable of judging of appearances. What else judges of music, grammar, and the other faculties, proves their uses, and points out the occasions for using them? Nothing else.

As then it was fit to be so, that which is best of all and supreme over all is the only thing which the gods have placed in our power, the right use of appearances; but all other things they have not placed in our power. Was it because they did not choose? I indeed think that, if they had been able, they would have put these other things also in our power, but they certainly could not. For as we exist on the earth, and are bound to such a body and to such companions, how was it possible for us not to be hindered as to these things by externals?

But what says Zeus? Epictetus, if it were possible, I would have made both your little body and your little property free and not exposed to hindrance. But now be not ignorant of this: this body is not yours, but it is clay finely tempered. And since I was not able to do for you what I have mentioned, I have given you a small portion of us, this faculty of pursuing an object and avoiding it, and the faculty of desire and aversion, and, in a word, the faculty of using the appearances of things; and if you will take care of this faculty and consider it your only possession, you will never be hindered, never meet with impediments; you will not lament, you will not blame, you will not flatter any person.

Well, do these seem to you small matters? I hope not. Be content with them then and pray to the gods. But now when it is in our power to look after one thing, and to attach ourselves to it, we prefer to look after many things, and to be bound to many things, to the body and to property, and to brother and to friend, and to child and

to slave. Since then we are bound to many things, we are depressed by them and dragged down. For this reason, when the weather is not fit for sailing, we sit down and torment ourselves, and continually look out to see what wind is blowing. It is north. What is that to us? When will the west wind blow? When it shall choose, my good man, or when it shall please Aeolus; for God has not made you the manager of the winds, but Aeolus. What then? We must make the best use that we can of the things which are in our power, and use the rest according to their nature. What is their nature then? As God may please.

Must I then alone have my head cut off? What, would you have all men lose their heads that you may be consoled? Will you not stretch out your neck as Lateranus did at Rome when Nero ordered him to be beheaded? For when he had stretched out his neck, and received a feeble blow, which made him draw it in for a moment, he stretched it out again. And a little before, when he was visited by Epaphroditus, Nero's freedman, who asked him about the cause of offense which he had given, he said, "If I choose to tell anything, I will tell your master."

What then should a man have in readiness in such circumstances? What else than this? What is mine, and what is not mine; and what is permitted to me, and what is not permitted to me. I must die. Must I then die lamenting? I must be put in chains. Must I then also lament? I must go into exile. Does any man then hinder me from going with smiles and cheerfulness and contentment? Tell me the secret which you possess. I will not, for this is in my power. But I will put you in chains. Man, what are you talking about? Me in chains? You may fetter my leg, but my will not even Zeus himself can overpower. I will throw you into prison. My poor body, you mean. I will cut your head off. When then have I told you that my head alone can not be cut off? These are the things which philosophers should meditate on, which they should write daily, in which they should exercise themselves.

Thrasea used to say, I would rather be killed to-day than banished to-morrow. What then did Rufus say to him? If you choose death as the heavier misfortune, how great is the folly of your choice? But if, as the lighter, who has given you the choice? Will you not study to be content with that which has been given to you?

What then did Agrippinus say? He said, "I am not a hindrance to myself." When it was reported to him that his trial was going on

in the Senate, he said, "I hope it may turn out well; but it is the fifth hour of the day"—this was the time when he was used to exercise himself and then take the cold bath—"let us go and take our exercise." After he had taken his exercise, one comes and tells him, You have been condemned. To banishment, he replies, or to death? To banishment. What about my property? It is not taken from you. Let us go to Aricia then, he said, and dine.

This it is to have studied what a man ought to study; to have made desire, aversion, free from hindrance, and free from all that a man would avoid. I must die. If now, I am ready to die. If, after a short time, I now dine because it is the dinner-hour; after this I will then die. How? Like a man who gives up what belongs to another.

HOW A MAN ON EVERY OCCASION CAN MAINTAIN HIS PROPER CHARACTER

To the rational animal only is the irrational intolerable; but that which is rational is tolerable. Blows are not naturally intolerable. How is that? See how the Lacedaemonians endure whipping when they have learned that whipping is consistent with reason. To hang yourself is not intolerable. When then you have the opinion that it is rational, you go and hang yourself. In short, if we observe, we shall find that the animal man is pained by nothing so much as by that which is irrational; and, on the contrary, attracted to nothing so much as to that which rational.

But the rational and the irrational appear such in a different way to different persons, just as the good and the bad, the profitable and the unprofitable. For this reason, particularly, we need discipline, in order to learn how to adapt the preconception of the rational and the irrational to the several things conformably to nature. But in order to determine the rational and the irrational, we use not only the estimates of external things, but we consider also what is appropriate to each person. For to one man it is consistent with reason to hold a chamber-pot for another, and to look to this only, that if he does not hold it, he will receive stripes, and he will not receive his food: but if he shall hold the pot, he will not suffer anything hard or disagreeable. But to another man not only does the holding of a chamber-pot appear intolerable for himself, but intolerable also for him to allow another

to do this for him. If then you ask me whether you should hold the chamber-pot or not, I shall say to you that the receiving of food is worth more than the not receiving of it, and the being scourged is a greater indignity than not being scourged; so that if you measure your interests by these things, go and hold the chamber-pot. "But this," you say, "would not be worthy of me." Well then, it is you who must introduce this consideration into the inquiry, not I; for it is you who know yourself, how much you are worth to yourself, and at what price you sell yourself; for men sell themselves at various prices.

For this reason, when Florus was deliberating whether he should go down to Nero's spectacles, and also perform in them himself, Agrippinus said to him, Go down: and when Florus asked Agrippinus, Why do not you go down? Agrippinus replied, Because I do not even deliberate about the matter. For he who has once brought himself to deliberate about such matters, and to calculate the value of external things, comes very near to those who have forgotten their own character. For why do you ask me the question, whether death is preferable or life? I say life. Pain or pleasure? I say pleasure. But if I do not take a part in the tragic acting, I shall have my head struck off. Go then and take a part, but I will not. Why? Because you consider yourself to be only one thread of those which are in the tunic. Well then it was fitting for you to take care how you should be like the rest of men, just as the thread has no design to be anything superior to the other threads. But I wish to be purple, that small part which is bright, and makes all the rest appear graceful and beautiful. Why then do you tell me to make myself like the many? and if I do, how shall I still be purple?

Priscus Helvidius also saw this, and acted conformably. For when Vespasian sent and commanded him not to go into the senate, he said, "It is in your power not to allow me to be a member of the senate, but so long as I am, I must go in." Well, go in then, says the emperor, but say nothing. Do not ask my opinion, and I will be silent. But I must ask your opinion. And I must say what I think right. But if you do, I shall put you to death. When then did I tell you that I am immortal? You will do your part, and I will do mine: it is your part to kill; it is mine to die, but not in fear: yours to banish me; mine to depart without sorrow.

What good then did Priscus do, who was only a single person? And what good does the purple do for the toga? Why, what else than this, that it is conspicuous in the toga as purple, and is displayed also

as a fine example to all other things? But in such circumstances another would have replied to Caesar who forbids him to enter the senate, I thank you for sparing me. But such a man Vespasian would not even have forbidden to enter the senate, for he knew that he would either sit there like an earthen vssel, or, if he spoke, he would say what Caesar wished, and add even more.

In this way an athlete also acted who was in danger of dying unless his private parts were amputated. His brother came to the athlete, who was a philosopher, and said, Come, brother, what are you going to do? Shall we amputate this member and return to the gymnasium? But the athlete persisted in his resolution and died. When some one asked Epictetus, How he did this, as an athlete or a philosopher? As a man, Epictetus replied, and a man who had been proclaimed among the athletes at the Olympic games and had contended in them, a man who had been familiar with such a place, and not merely anointed in Baton's school. Another would have allowed even his head to be cut off, if he could have lived without it. Such is that regard to character which is so strong in those who have been accustomed to introduce it of themselves and conjoined with other things into their deliberations.

Come then, Epictetus, shave yourself. If I am a philosopher, I answer, I will not shave myself. But I will take off your head? If that will do you any good, take it off.

Some person asked, how then shall every man among us perceive what is suitable to his character? How, he replied, does the bull alone, when the lion has attacked, discover his own powers and put himself forward in defence of the whole herd? It is plain that with the powers the perception of having them is immediately conjoined; and, therefore, whoever of us has such powers will not be ignorant of them. Now a bull is not made suddenly, nor a brave man; but we must discipline ourselves in the winter for the summer campaign, and not rashly run upon that which does not concern us.

Only consider at what price you sell your own will; if for no other reason, at least for this, that you sell it not for a small sum. But the great and superior belongs perhaps to Socrates and such as are like him. Why then, if we are naturally such, are not a very great number of us like him? Is it true then that all horses become swift, that all dogs are skilled in tracking footprints? What then, since I am naturally dull, shall I, for this reason, take no pains? I hope not. Epictetus is not superior to Socrates; but if he is not inferior, this is

enough for me; for I shall never be a Milo, and yet I do not neglect my body; nor shall I be a Croesus, and yet I do not neglect my property; nor, in a word, do we neglect looking after anything because we despair of reaching the highest degree.

HOW A MAN SHOULD PROCEED FROM THE PRINCIPLE OF GOD BEING THE FATHER OF ALL MEN TO THE REST

If a man should be able to assent to this doctrine as he ought, that we are all sprung from God in an especial manner, and that God is the father both of men and of gods, I suppose that he would never have any ignoble or mean thoughts about himself. But if Caesar (the emperor) should adopt you, no one could endure your arrogance; and if you know that you are the son of Zeus, will you not be elated? Yet we do not so; but since these two things are mingled in the generation of man, body in common with the animals, and reason and intelligence in common with the gods, many incline to this kinship, which is miserable and mortal; and some few to that which is divine and happy. Since then it is of necessity that every man uses everything according to the opinion which he has about it, those, the few, who think that they are formed for fidelity and modesty and a sure use of appearances have no mean or ignoble thoughts about themselves; but with the many it is quite the contrary. For they say, What am I? A poor, miserable man, with my wretched bit of flesh. Wretched, indeed; but you possess something better than your bit of flesh. Why then do you neglect that which is better, and why do you attach yourself to this?

Through this kinship with the flesh, some of us inclining to it become like wolves, faithless and treacherous and mischievous: some become like lions, savage and bestial and untamed; but the greater part of us become foxes, and other worse animals. For what else is a slanderer and a malignant man than a fox, or some other more wretched and meaner animal? See then and take care that you do not become some one of these miserable things.

OF PROGRESS OR IMPROVEMENT

He who is making progress, having learned from philosophers that desire means the desire of good things, and aversion means aver-

sion from bad things; having learned too that happiness and tranquillity are not attainable by man or woman except by not failing to obtain what he desires, and not falling into that which he would avoid; such a man takes from himself desire altogether and defers it, but he employs his aversion only on things which are dependent of his will, he knows that sometimes he will fall in with something which he wishes to avoid, and he will be unhappy. Now if virtue promises good fortune and tranquillity and happiness, certainly also the progress towards virtue is progress towards each of these things. For it is always true that to whatever point the perfecting of anything leads us, progress is an approach towards this point.

How then do we admit that virtue is such as I have said, and yet seek progress in other things and make a display of it? What is the product of virtue? Tranquillity. Who then makes improvement? Is it he who has read many books of Chrysippus? But does virtue consist in having understood Chrysippus? If this is so, progress is clearly nothing else than knowing a great deal of Chrysippus. But now we admit that virtue produces one thing, and we declare that approaching near to it is another thing, namely, progress or improvement. Such a person, says one, is already able to read Chrysippus by himself. Indeed, sir, you are making great progress. What kind of progress? But why do you mock the man? Why do you draw him away from the perception of his own misfortunes? Will you not show him the effect of virtue that he may learn where to look for improvement? Seek it there, wretch, where your work is. Yes. And where is your work? In desire and in aversion, that you may not be disappointed in your desire, and that you may not fall into that which you would avoid; in your pursuit and avoiding, that you commit no error; in assent and suspension of assent, that you be not deceived. The first things, and the most necessary, are those which I have named. But if with trembling and lamentation you seek not to fall into that which you avoid, tell me how you are improving.

Do you then show me your improvement in these things? If I were talking to an athlete, I should say, Show me your shoulders; and then he might say, Here are my Halteres. You and your Halteres look to that. I should reply, I wish to see the effect of the Halteres. So, when you say: Take the treatise on the active powers (*horma*), and see how I have studied it. I reply, Slave, I am not inquiring about this, but how you exercise pursuit and avoidance, desire and aversion, how you design and purpose and prepare yourself, whether conform-

ably to nature or not. If conformably, give me evidence of it, and I will say that you are making progress: but if not conformably, be gone, and not only expound your books, but write such books yourself; and what will you gain by it? Do you not know that the whole book costs only five denarii? Does then the expounder seem to be worth more than five denarii? Never then look for the matter itself in one place, and progress towards it in another.

Where then is progress? If any of you, withdrawing himself from externals, turns to his own will (*proairesis*) to exercise it and to improve it by labor, so as to make it conformable to nature, elevated, free, unrestrained, unimpeded, faithful, modest; and if he has learned that he who desires or avoids the things which are not in his power can neither be faithful nor free, but of necessity he must change with them and be tossed about with them as in a tempest, and of necessity must subject himself to others who have the power to procure or prevent what he desires or would avoid; finally, when he rises in the morning, if he observes and keeps these rules, bathes as a man of fidelity, eats as a modest man; in like manner, if in every matter that occurs he works out his chief principles (*ta proagoumena*) as the runner does with reference to running, and the trainer of the voice with reference to the voice—this is the man who truly makes progress, and this is the man who has not travelled in vain. But if he has strained his efforts to the practice of reading books, and labors only at this, and has travelled for this, I tell him to return home immediately, and not to neglect his affairs there; for this for which he has travelled is nothing. But the other thing is something, to study how a man can rid his life of lamentation and groaning, and saying, Woe to me, and wretched that I am, and to rid it also of misfortune and disappointment, and to learn what death is, and exile, and prison, and poison, that he may be able to say when he is in fetters, Dear Crito, if it is the will of the gods that it be so, let it be so; and not to say, Wretched am I, an old man; have I kept my grey hairs for this? Who is it that speaks thus? Do you think that I shall name some man of no repute and of low condition? Does not Priam say this? Does not Oedipus say this? Nay, all kings say it! For what else is tragedy than the perturbations (*patha*) of men who value externals exhibited in this kind of poetry? But if a man must learn by fiction that no external things which are independent of the will concern us, for my part I should like this fiction, by the aid of which I should live happily and undisturbed. But you must consider for yourselves what you wish.

What then does Chrysippus teach us? The reply is, to know that these things are not false, from which happiness comes and tranquillity arises. Take my books, and you will learn how true and conformable to nature are the things which make me free from perturbations. O great good fortune! O the great benefactor who points out the way! To Triptolemus all men have erected temples and altars, because he gave us food by cultivation; but to him who discovered truth and brought it to light and communicated it to all, not the truth which shows us how to live, but how to live well, who of you for this reason has built an altar, or a temple, or has dedicated a statue, or who worships God for this? Because the gods have given the vine, or wheat, we sacrifice to them; but because they have produced in the human mind that fruit by which they designed to show us the truth which relates to happiness, shall we not thank God for this?

WHAT IS THE NATURE OF THE GOOD?

God is beneficial. But the Good also is beneficial. It is consistent then that where the nature of God is, there also the nature of the good should be. What then is the nature of God? Flesh? Certainly not. An estate in land? By no means. Fame? No. Is it intelligence, knowledge, right reason? Yes. Herein then simply seek the nature of the good; for I suppose that you do not seek it in a plant. No. Do you seek it in an irrational animal? No. If then you seek it in a rational animal, why do you still seek it any where except in the superiority of rational over irrational animals? Now plants have not even the power of using appearances, and for this reason you do not apply the term good to them. The good then requires the use of appearances. Does it require this use only? For if you say that it requires this use only, say that the good, and that happiness and unhappiness are in irrational animals also. But you do not say this, and you do right; for if they possess even in the highest degree the use of appearances, yet they have not the faculty of understanding the use of appearances; and there is good reason for this, for they exist for the purpose of serving others, and they exercise no superiority. For the ass, I suppose, does not exist for any superiority over others. No; but because we had need of a back which is able to bear something; and in truth we had need also of his being able to walk, and for this reason he received also the faculty of making use of appearances, for

otherwise he would not have been able to walk. And here then the matter stopped. For if he had also received the faculty of comprehending the use of appearances, it is plain that consistently with reason he would not then have been subjected to us, nor would he have done us these services, but he would have been equal to us and like to us.

Will you not then seek the nature of good in the rational animal? for if it is not there, you will not choose to say that it exists in any other thing (plant or animal). What then? are not plants and animals also the works of God? They are; but they are not superior things, nor yet parts of the Gods. But you are a superior thing; you are a portion separated from the deity; you have in yourself a certain portion of him. Why then are you ignorant of your own noble descent? Why do you not know whence you came? will you not remember when you are eating, who you are who eat and whom you feed? When you are in conjunction with a woman, will you not remember who you are who do this thing? When you are in social intercourse, when you are exercising yourself, when you are engaged in discussion, know you not that you are nourishing a god, that you are exercising a god? Wretch, you are carrying about a god with you, and you know it not. Do you think that I mean some god of silver or of gold, and external? You carry him within yourself, and you perceive not that you are polluting him by impure thoughts and dirty deeds. And if an image of God were present, you would not dare to do any of the things which you are doing: but when God himself is present within and sees all and hears all, you are not ashamed of thinking such things and doing such things, ignorant as you are of your own nature and subject to the anger of God. Then why do we fear when we are sending a young man from the school into active life, lest he should do anything improperly, eat improperly, have improper intercourse with women; and lest the rags in which he is wrapped should debase him, lest fine garments should make him proud? This youth (if he acts thus) does not know his own God: he knows not with whom he sets out (into the world). But can we endure when he says 'I wish I had you (God) with me.' Have you not God with you? and do you seek for any other, when you have him? or will God tell you any thing else than this? If you were a statue of Phidias, either Athena or Zeus, you would think both of yourself and of the artist, and if you had any understanding (power of perception) you would try to do nothing unworthy of him who made you or of yourself, and try not to appear in an unbecoming dress (attitude) to those who look on you. But now

because Zeus has made you, for this reason do you care not how you shall appear? And yet is the artist (in the one case) like the artist in the other? or the work in the one case like the other? And what work of an artist, for instance, has in itself the faculties, which the artist shows in making it? Is it not marble or bronze, or gold or ivory? and the Athena of Phidias when she has once extended the hand and received in it the figure of Victory stands in that attitude for ever. But the works of God have power of motion, they breathe, they have the faculty of using the appearances of things, and the power of examining them. Being the work of such an artist do you dishonor him? And what shall I say, not only that he made you, but also entrusted you to yourself and made you a deposit to yourself? Will you not think of this too, but do you also dishonor your guardianship? But if God had entrusted an orphan to you, would you thus neglect him? He has delivered yourself to your own care, and says, I had no one fitter to intrust him to than yourself: keep him for me such as he is by nature, modest, faithful, erect, unterrified, free from passion and perturbation. And then you do not keep him such.

But some will say, whence has this fellow got the arrogance which he displays and these supercilious looks?—I have not yet so much gravity as befits a philosopher; for I do not yet feel confidence in what I have learned and in what I have assented to: I still fear my own weakness. Let me get confidence and then you shall see a countenance such as I ought to have and an attitude such as I ought to have: then I will show you the statue, when it is perfected, when it is polished. What do you expect? a supercilious countenance? Does the Zeus at Olympia lift up his brow? No, his look is fixed as becomes him who is ready to say

Irrevocable is my word and shall not fail.—Iliad, i, 526.

Such will I show myself to you, faithful, modest, noble, free from perturbatoin—What, and immortal too, exempt from old age, and from sickness? No, but dying as becomes a god, sickening as becomes a god. This power I possess; this I can do. But the rest I do not possess, nor can I do. I will show the nerves (strength) of a philosopher. What nerves are these? A desire never disappointed, an aversion which never fails on that which it would avoid, a proper pursuit (*horman*), a diligent purpose, an assent which is not rash. These you shall see.

WHAT THE BEGINNING OF PHILOSOPHY IS

The beginning of philosophy to him at least who enters on it in the right way and by the door, is a consciousness of his own weakness and inability about necessary things. For we come into the world with no natural notion of a right angled triangle, or of a diesis (a quarter tone), or of a half tone; but we learn each of these things by a certain transmission according to art; and for this reason those who do not know them, do not think that they know them. But as to good and evil, and beautiful and ugly, and becoming and unbecoming, and happiness and misfortune, and proper and improper, and what we ought to do and what we ought not to do, whoever came into the world without having an innate idea of them? Wherefore we all use these names, and we endeavor to fit the preconceptions to the several cases (things) thus: he has done well, he has not done well; he has done as he ought, not as he ought; he has been unfortunate, he has been fortunate; he is unjust, he is just: who does not use these names? who among us defers the use of them till he has learned them, as he defers the use of the words about lines (geometrical figures) or sounds? And the cause of this is that we came into the world already taught as it were by nature some things on this matter (*topon*), and proceeding from these we have added to them self-conceit (*oiesin*). For why, a man says, do I not know the beautiful and the ugly? Have I not the notion of it? You have. Do I not adapt its particulars? You do. Do I not adapt it properly? In that lies the whole question; and conceit is added here. For beginning from these things which are admitted men proceed to that which is matter of dispute by means of unsuitable adaptation; for if they possessed this power of adaptation in addition to these things, you would hinder them from being perfect? But now since you think that you properly adapt the preconceptions to the particulars, tell me whence you derive this (assume that you do so). Because I think so. But it does not seem as to another, and he thinks that he also makes a proper adaptation; or does he not think so? He does think so. Is it possible then that both of you can properly apply the preconceptions to things about which you have contrary opinions? It is not possible. Can you then show us anything better towards adapting the preconceptions beyond your thinking that you do? Does the madman do any other things than the things which seem to him right? Is then this criterion

sufficient for him also? It is not sufficient. Come then to something, which is superior to seeming ..... What is this?

Observe, this is the beginning of philosophy, a perception of the disagreement of men with one another, and an inquiry into the cause of the disagreement, and a condemnation and distrust of that which only "seems," and a certain investigation of that which "seems" whether it "seems" rightly, and a discovery of some rule ....., as we have discovered a balance in the determination of weights, and a carpenter's rule (or square) in the case of straight and crooked things.—This is the beginning of philosophy. Must we say that all things are right which seem so to all? And how is it possible that contradictions can be right? Not all then, but all which seem to us to be right.—How more to you than those which seem right to the Syrians? why more than what seem right to the Egyptians? why more than what seems right to me or to any other man? Not at all more. What then "seems" to every man is not sufficient for determining what "is;" for neither in the case of weights or measures are we satisfied with the bare appearance, but in each case we have discovered a certain rule. In this matter then is there no rule superior to what "seems"? And how is it possible that the most necessary things among men should have no sign (mark), and be incapable of being discovered? There is then some rule. And why then do we not seek the rule and discover it, and afterwards use it without varying from it, not even stretching out the finger without it? For this, I think, is that which when it is discovered cures of their madness those who use mere "seeming" as a measure, and misuse it; so that for the future proceeding from certain things (principles) known and made clear we may use in the case of particular things the preconceptions which are distinctly fixed.

What is the matter presented to us about which we are inquiring? Pleasure (for example). Subject it to the rule, throw it into the balance. Ought the good to be such a thing that it is fit that we have confidence in it? Yes. And in which we ought to confide? It ought to be. Is it good to trust to any thing which is insecure? No. Is then pleasure any thing secure? No. Take it then and throw it out of the scale, and drive it far away from the place of good things. But if you are not sharp-sighted, and one balance is not enough for you, bring another. Is it fit to be elated over what is good? Yes. Is it proper then to be elated over present pleasure? See that you do not say that it is proper; but if you do, I shall then not think you worthy even of the balance. Thus things are tested and weighed when the rules are ready. And to

philosophize is this, to examine and confirm the rules; and then to use them when they are known is the act of a wise and good man.

MARCUS AURELIUS

We are apt to think that the greatest glory of Rome was under the Republic. It is true that under the Republic Rome conquered the lands around the Mediterranean, but this was an era of war. Her great era of peace was under the Empire from 69 A. D. to 180 A. D., and especially during the last eighty-five years of that period. The bounds of the empire were then at their farthest extent, the Mediterranean lands enjoyed the longest continuance of tranquility in their recorded history, there were just emperors upon the throne and a just administration of the most highly developed system of jurisprudence the world had ever known, and the morals of the time must have been pure, for Tacitus speaks of the extravagance of the hundred years since the Civil war as being a thing of the past.

One of the best types of this period is Marcus Aurelius Antoninus. He was the adopted son of Antoninus Pius, and succeeded him upon the throne 161 A. D., reigning until 180 A. D. He was a stoic and one of the noblest disciples of that philosophy. The passage from him given below illustrates the influence that stoicism was capable of exerting and actually did exert upon the most upright characters from the days of Cato to the triumph of Christianity.

THOUGHTS

From my grandfather Verus [I learned] good morals and the government of my temper.

2. From the reputation and remembrance of my father, modesty and a manly character.

3. From my mother, piety and beneficence, and abstinence, not only from evil deeds, but even from evil thoughts; and further, simplicity in my way of living, far removed from the habits of the rich.

4. From my great-grandfather, not to have frequented public schools, and to have had good teachers at home, and to know that on such things a man should spend liberally.

5. From my governor, to be neither of the green nor of the blue iusparty at the games in the Circus, nor a partizan either of the Parmularius or the Scutarius at the gladiators' fights; from him too I learned endurance of labour, and to want little, and to work with my own hands, and not to meddle with other people's affairs, and not to be ready to listen to slander.

6. From Diognetus, not to busy myself about trifling things, and not to give credit to what was said by miracle-workers and jugglers about incantations and the driving away of daemons and such things; and not to breed quails [for fighting], nor to give myself up passionately to such things; and to endure freedom of speech; and to have become intimate with philosophy; and to have been a hearer, first of Bacchius, then of Tandasis and Marcianus; and to have written dialogues in youth; and to have desired a plank bed and skin, and whatever else of the kind belongs to the Grecian discipline.

7. From Rusticus I received the impression that my character required improvement and discipline; and from him I learned not to be led astray to sophistic emulation, nor to writing on speculative matters, nor to delivering little hortatory orations, nor to showing myself off as a man who practices much discipline, or does benevolent acts in order to make a display; and to abstain from rhetoric, and poetry, and fine writing; and not to walk about in the house in my outdoor dress, nor to do other things of the kind; and to write my

letters with simplicity, like the letter which Rusticus wrote from Sinuessa to my mother; and with respect to those who have offended me by words, or done me wrong, to be easily disposed to be pacified and reconciled, and to read carefully, and not to be satisfied with a superficial understanding of a book; nor hastily to give my assent to those who talk overmuch; and I an indebted to him for being acquainted with the discourses of Epictetus, which he communicated to me out of his own collection.

8. From Appollonius I learned freedom of will and undeviating steadiness of purpose; and to look to nothing else, not even for a moment, except to reason; and to be always the same, in sharp pains, on the occasion of the loss of a child, and in long illness; and to see clearly in a living example that the same man can be both most resolute and yielding, and not peevish in giving his instruction; and to have had before my eyes a man who clearly considered his experience and his skill in expounding philosophical principles as the smallest of his merits; and from him I learned how to receive from friends what are esteemed favours, without being either humbled by them or letting them pass unnoticed.

9. From Sextus, a benevolent disposition, and the example of a family governed in a fatherly manner, and the idea of living conformably to nature; and gravity without affection, and to look carefully after the interests of friends, and to tolerate ignorant persons, and to those who form opinions without consideration: he had the power of readily accommodating himself to all, so that intercourse with him was more agreeable than any flattery; and at the time he was most highly venerated by those who associate with him: and he had the faculty both of discovering and ordering, in an intelligent and methodical way, the principles neccessary for life; and he never showed anger or any other passion, but was entirely free from passion, and also most affectionate; and he could express approbation without noisy display, and he possessed much knowledge without ostentation.

10. From Alexander the grammarian, to refrain from fault-finding, and not in a reproachful way to chide those who uttered any barbarous or solecistic or strange-sounding expression; but dexterously to introduce the very expression which ought to have been used, and in the way of answer or giving confirmation, or joining in an inquiry about the thing itself, not about the word, by some other fit suggestion.

11. From Fornto I learned to observe what envy, and duplicity, and hypocricy are in a tyrant, and that generally those among us who

are called Patricians are rather deficient in paternal affection.

12. From Alexander the Platonic, not frequently nor without necessity to say to any one, or to write in a letter, that I have no leisure; nor continually to excuse the neglect of duties required by our relation to those with whom we live, by alleging urgent occupations.

13. From Catulus, not to be indifferent when a friend finds fault, even if he should find fault without reason, but to try to restore him to his usual disposition; and to be ready to speak well of teachers, as it is reported of Domitius and Athenodotus; and to love my children truly.

14. From my brother Severus, to love my kin, and to love truth, and to love justice; and through him I learned to know Thrasea, Helvidius, Cato, Dion, Brutus; and from him I received the idea of a polity in which there is the same law for all, a polity administered with regard to equal rights and equal freedom of speech, and the idea of a kindly government which respects most of all the freedom of the governed; I learned from him also consistency and undeviating steadiness in my regard for philosophy; and a disposition to do good, and to give to others readily, and to cherish good hopes, and to believe that I am loved by my friends; and in him I observed no concealment, and that his friends had no need to conjecture what he wished or did not wish, but it was quite plain.

15. From Maximus I learned self-government, and not to be led aside by anything; and cheerfulness in all circumstances, as well as in illness; and a just mixture in the moral character of sweetness and dignity, and to do what was set before me without complaining. I observed that everybody believed that he thought as he spoke, and that in all that he did he never had any bad intention; and he never showed amazement and surprise, and was never in a hurry, and never put off doing a thing, nor was perplexed nor dejected, nor did he ever laugh to disguise his vexation, nor, on the other hand, was he ever passionate or suspicious. He was accustomed to do acts of beneficence, and was ready to forgive, and was free from all falsehood; and he presented the appearance of a man who could be diverted from right rather than of a man who had been improved. I observed, too, that no man could ever venture to think himself a better man. He had also the art of being humorous in an agreeable way.

16. In my father I observed mildness of temper, and unchangeable resolution in the things which he had determined after due deliberation; and no vainglory in those things which men call honors;

and love of labor and perseverance; and a readiness to listen to those who had anything to propose for the common weal; and undeviating firmness in giving to every man according to his deserts; and a knowledge derived from experience of the occasions for vigorous action and for remission. And I observed that he had overcome all passion for boys; and he considered himself no more than any other citizen; and he released his friends from all obligation to sup with him or to attend him of necessity when he went abroad, and those who had failed to accompany him, by reason of any urgent circumstances, always found him the same. I observed too his habit of careful inquiry in all matters of deliberation, and his persistency, and that he never stopped his investigation through being satisfied with appearances that first present themselves; and that his disposition was to keep his friends, and not to be too soon tired of them, nor yet to be extravagant in his affection; and to be satisfied on all occasions, and cheerful; and to foresee things a long way off, and to provide for the smallest without display; and to be ever watchful over the things which were necessary for the administration of the empire, and to be a good manager of the expenditure, and patiently to endure the blame which he got for such conduct; and he was neither superstitious with respect to the gods, nor did he court men by gifts or by trying to please them, or by flattering the populace; but he showed sobriety in all things and firmness, and never any mean thoughts or action, nor love of novelty. And the things which conduce in any way to the commodity of life, and of which fortune gives an abundant supply, he used without arrogance and without excusing himself; so that when he had them, he enjoyed them without affection, and when he had them not, he did not want them. No one could ever say of him that he was either a sophist or a [home-bred] flippant slave or a pedant; but everyone acknowledged him to be a man ripe, perfect, above flattery, able to manage his own and other men's affairs. Besides this he honored those who were true philosophers, and he did not reproach those who pretended to be philosophers, nor yet was he easily led by them. He was also easy in conversation, and he made himself agreeable without any offensive affectation. He took a reasonable care of his body's health, not as one who was greatly attached to life, nor out of regard to personal appearance, nor yet in a careless way, but so that, through his own attention, he very seldom stood in need of the physician's art or of medicine or external applications. He was most ready to give way without envy to those who possessed any particular faculty, such as that of eloquence or knowledge of the law or of morals,

or of anything else; and he gave them his help, that each might enjoy reputation according to his deserts; and he always acted conformably to the institutions of his country, without showing any affectation of doing so. Further, he was not fond of change or unsteady, but he loved to stay in the same places, and to employ himself about the same things; and after his paroxysms of headache he came immediately fresh and vigorous to his usual occupations. His secrets were not many, but very few and very rare, and these only about public matters; and he showed prudence and economy in the exhibition of the public spectacles and the construction of public buildings, his donations to the people, and in such things, for he was a man who looked to what ought to be done, not to the reputation which is got by a man's acts. He did not take the bath at unreasonable hours: he was not fond of building houses, nor curious about what he ate, nor about the texture and colour of his clothes, nor about the beauty of his slaves. His dress came from Lorium, his villa on the coast, and from Lanuvium generally. We know how he behaved by the toll-collector at Tusculum who asked his pardon; and such was all his behavior. There was in him nothing harsh, nor implacable, nor violent, nor, as one may say, anything carried to the sweating point; but he examined all things severally, as if he had abundance of time, and without confusion, in an orderly way, vigorously and consistently. And that might be applied to him which is recorded of Socrates, that he was able both to abstain from, and to enjoy, those things which many are too weak to abstain from, and cannot enjoy without excess. But to be strong enough both to bear the one and to be sober in the other is the mark of a man who has a perfect and invincible soul, such as he showed in the illness of Maximus.

17. To the gods I am indebted for having good grandfathers, good parents, a good sister, good teachers, good associates, good kinsmen and friends, nearly everything good. Further, I owe it to the gods that I was not hurried into any offence against any of them, though I had a disposition which, if opportunity had offered, might have led me to do something of this kind; but, through their favour, there never was such a concurrence of circumstances as put me to the trial. Further, I am thankful to the gods that I was no longer brought up with my grandfather's concubine, and that I preserved the flower of my youth, and that I did not make proof of my virility before the proper season, but even deferred the time; that I was subjected to a ruler and a father who was able to take away all pride from me, and

to bring me to the knowledge that it was possible for a man to live in a palace without wanting either guards or embroidered dresses, or torches and statues, and such-like show; but that it is in such a man's power to bring himself very near to the fashion of a private person, without being for this reason either meaner in thought, or more remiss in action, with respect to the things which must be done for the public interest in a manner that befits the ruler. I thank the gods for giving me such a brother, who was able by his moral character to rouse me to vigilance over myself, and who, at the same time, pleased me by his respect and affection; that my children have not been stupid nor deformed in body; that I did not make more proficiency in rhetoric, poetry, and the other studies, in which I should perhaps have been completely engaged, if I had seen that I was making progress in them; that I made haste to place those who brought me up in the station of honour, which they seemed to desire, without putting them off with the hope of my doing it sometime after, because they were then still young; that I knew Appollonius, Rusticus, Maximus; that I received clear and frequent impressions about living according to nature, and what kind of a life that is, sc that, so far as depended on the gods, and their gifts, and help, and inspirations, nothing hindered me from forthwith living according to nature, though I still fall short of it through my own fault, and through not observing the admonitions of the gods, and, I may almost say, their direct instructions; that my body has held out so long in such a kind life; that I never touched either Benedicta or Theodotus, and that, after having fallen into amatory passions, I was cured; and, though I was often out of humor with Rusticus, I never did anything of which I had occasion to repent; that, though it was my mother's fate to die young, she spent the last years of her life with me; that, whenever I wished help any man in his need, or on any other occasion, I was never told that I had not the means of doing it; and that to myself the same necessity never happened, to receive anything from another; that I have such a wife, so obedient, and so affectionate, and so simple; that I had abundance of good masters for my children; and that remedies have been shown to me by dreams, both others, and against bloodspitting and giddiness (text corrupt), and that, when I had an inclination to philosophy, I did not waste my time on writers [of histories], or in the resolution of syllogisms, or occupy myself about the investigation of appearances in the heavens; for all these things require the help of the gods and fortune.

Among the Quadi at the Granua.

II.

Begin the morning by saying to thyself, I shall meet with the busybody, the ungrateful, arrogant, deceitful, envious, unsocial. All these things happen to them by reason of their ignorance of what is good and evil. But I who have seen the nature of the good that it is beautiful, and of the bad that it is ugly, and the nature of him who does wrong, that it is akin to me, not [only] of the same blood or seed, but that it participates in [the same] intelligence and [the same] portion of the divinity, I can neither be injured by any of them, for no one can fix on me what is ugly, nor can I be angry with my kinsman, nor hate him. For we are made for co-operation, like feet, hands, like eyelids, like the rows of the lower and upper teeth. To act against one another then is contrary to nature; and it is acting against one another to be vexed and to turn away.

2. Whatever this is that I am, it is a little flesh and breath, and the ruling part. Throw away thy books; no longer distract thyself: it is not allowed; but as if thou wast now dying, despise the flesh; it is blood and bones and a network, a contexture of nerves, veins, and arteries. See the breath also, what kind of a thing it is, air, and not always the same, but every moment sent out and again sucked in. The third then is the ruling part: consider thus: Thou art an old man; no longer let this be a slave, no longer be pulled by the strings like a puppet to unsocial movements, no longer be either dissatisfied with thy present lot, or shrink from the future.

3. All that is from the gods is full of providence. That which is from fortune is not separated from nature or without an interweaving and *involution* with the things which are ordered by providence. From thence all things flow; and there is besides necessity, and that which is for the advantage of the whole universe, of which thou art a part. But this is good for every part of nature which the nature of the whole brings, and what serves to maintain this nature. Now the universe is preserved, as by changes of the elements so by the changes of things compounded of the elements. Let these principles be enough for thee, let them always be fixed opinions. But cast away the thirst after books, that thou mayest not die murmuring, but cheerfully, truly, and from thy heart thankful to the gods.

4. Remember how long thou hast been putting off these things, and how often thou hast received an opportunity from the gods, and

yet dost not use it. Thou must now at last perceive of what universe thou art a part, and of what administrator of the universe thy existence is an efflux, and that a limit of time is fixed for thee, which if thou dost not use for clearing away the clouds from thy mind, it will go and thou wilt go, and it will never return.

5. Every moment think steadily as a Roman and a man to do what thou hast in hand with perfect and simple dignity, and feeling of affection, and freedom, and justice; and to give thyself relief from all other thoughts. And thou wilt give thyself relief, if thou dost every act of thy life as if it were the last, laying aside all carelessness and passionate aversion from the commands of reason, and all hypocrisy, and self-love, and discontent with the portion which has been given thee. Thou seest how few the things are, the which if a man lays hold of, he is able to live a life which flows in quiet, and is like the existence of the gods; for the gods on their part will require nothing more from him who observes these things.

6. Do wrong to thyself, do wrong to thyself, my soul; but thou wilt no longer have the opportunity of honouring thyself. Every man's life is sufficient. But thine is nearly finished, though thy soul reverences not itself, but places thy felicity in the souls of others.

7. Do the things external which fall upon thee distract thee? Give thyself time to learn something new and good, and cease to be whirled around. But then thou must also avoid being carried about the other way. For those too are triflers who have wearied themselves in life by their activity, and yet have no object to which to direct every movement, and, in a word, all their thoughts.

8. Through not observing what is in the mind of another a man has seldom been seen to be unhappy; but those who do not observe the movements of their own minds must of necessity be unhappy.

9. This thou must always bear in mind, what is the nature of the whole, and what is my nature, and how is this related to that, and what kind of a part is it of what kind of a whole; and that there is no one who hinders thee from always doing and saying the things which are according to the nature of which thou art a part.

10. Theophrastus, in his comparison of bad acts—such a comparison as one would make in accordance with the common notions of mankind—says, like a true philosopher, that the offenses which are committed through desire are more blamable than those which are committed through anger. For he who is excited by anger seems to turn away from reason with a certain pain and unconscious contrac-

tion; but he who offends through desire, being overpowered by pleasure, seems to be in a manner more intemperate and more womanish in his offences. Rightly then, and in a way worthy of philosophy, he said that the offence which is committed with pleasure is more blamable than that which is committed with pain; and on the whole the one is more like a person who has been first wronged and through pain is compelled to be angry; but the other is moved by his own impulse to do wrong, being carried toward doing something by desire.

11. Since it is possible that thou mayest depart from life this very moment, regulate every act and thought accordingly. But to go away from among men, if there are gods, is not a thing to be afraid of, for the gods will not involve thee in evil; but if indeed they do not exist, or if they have no concern about human affairs, what is it to me to live in a universe devoid of gods or devoid of providence? But in truth they have put all the means in man's power to enable him to fall into real evils. And as to the rest, if there was anything evil, they would have provided for this also, that it should be altogether in a man's power not to fall into it. Now that which does not make a man worse, how can it make a man's life worse? But neither through ignorance, nor having the knowledge, but not the power to guard against or correct these things, is it possible that the nature of the universe has overlooked them; nor is it possible that it has made so great a mistake, either through want of power or want of skill, that good and evil should happen indiscriminately to the good and the bad. But death certainly, and life, honour and dishonour, pain and pleasure, all these things equally happen to good men and bad, being things which make us neither better nor worse. Therefore they are neither good nor evil.

12. How quickly all things disappear, in the universe the bodies themselves, but in time the remembrance of them; what is the nature of all sensible things, and particularly those which attract with the bait of pleasure or terrify with pain, or are noised abroad by vapoury fame; how worthless, and contemptible, and sordid, and perishable, and dead they are—all this it is the part of the intellectual faculty to observe. To observe too who these are whose opinions and voices give reputation; what death is, and the fact that, if a man looks at it in itself, and by the abstractive power of reflection resolves into their parts all the things which present themselves to the imagination in it, he will then consider it to be nothing else than an operation of nature, he is a child. This, however, is not only an operation of nature, but is also a thing which conduces to the purposes of nature. To observe too how near man

comes to the deity, and by what part of him, and when this part of man is so disposed.

13. Nothing is more wretched than a man who traverses everything in a round, and pries into the things beneath the earth, as the poet says, and seeks by conjecture what is in the minds of his neighbours, without perceiving that it is sufficient to attend to the daemon within him, and to reverence it sincerely. And reverence of the daemon consists in keeping it pure from passion and thoughtlessness, and dissatisfaction with what comes from gods and men. For the things from the gods merit veneration for their excellence; and the things from men should be dear to us by reason of kinship; and sometimes even, in a manner, they move our pity by reason of men's ignorance of good and bad; this defect being not less than that which deprives us of the power of distinguishing things that are white and black.

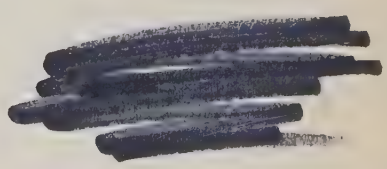
14. Though thou shouldst be going to live three thousand years, and as many times ten thousand years, still remember that no man loses any other life than this which he now lives, nor lives any other than this which he now loses. The longest and shortest are thus brought to the same. For the present is the same to all, though what perishes is not the same; and so that which is lost appears to be a mere moment. For a man cannot lose either the past or the future: for what a man has not, how can any one take this from him? These two things then thou must bear in mind; the one, that all things from eternity are of like forms and come around in a circle, and that it makes no difference whether a man shall see the same things during a hundred years or two hundred, or an infinite time; and the second, that the longest liver and he who will die soonest lose just the same. For the present is the only thing of which a man can be deprived, if it is true that this is the only thing which he has, and that a man cannot lose a thing if he has it not.

15. Remember that all is opinion. For what was said by the Cynic Monimus is manifest: and manifest too is the use of what is said, if a man receives what may be got out of it as far as it is true.

16. The soul of man does violence to itself, first of all, when it becomes an abscess and, as it were, a tumor on the universe, so far as it can. For to be vexed at anything which happens is a separation of ourselves from nature, in some part of which the natures of all other things are contained. In the next place, the soul does violence to itself when it turns away from any man, or even moves toward him with the intention of injuring, such as are the souls of those who are angry. In

the third place, the soul does violence to itself when it is overpowered by pleasure or pain. Fourthly, when it plays a part, and does or says anything insincerely and untruly. Fifthly when it allows any act of its own and any movement to be without an aim, and does anything thoughtlessly and without considering what it is, it being the right that even the smallest things to be done with reference to an end; and the end of rational animals is to follow the reason and the law of the most ancient city and polity.

17. Of human life the time is a point, and the substance is a flux, and the perception dull, and the composition of the whole body subject to putrefaction, and the soul a whirl, and fortune hard to divine, and fame a thing devoid of judgment. And, to say all in a word, everything which belongs to the body is a stream, and what belongs to the soul is a dream and vapour, and life is a warfare and a stranger's sojourn, and after-fame is oblivion. What then is that which is able to conduct a man? One thing and only one, philosophy. But this consists in keeping the daemon within a man free from violence and unharmed, superior to pains and pleasures, doing nothing without a purpose, nor yet falsely and with hypocrisy, not feeling the need of another man's doing or not doing anything; and besides, accepting all that happens, and all that is allotted, as coming from thence, wherever it is, from whence he himself came; and, finally, waiting for death with a cheerful mind, as being nothing else than a dissolution of the elements of which every living being is compounded. But if there is no harm to the elements themselves in each continually changing into another, why should a man have any apprehensions about the change and dissolution of all the elements? For it is according to nature, and nothing is evil which is according to nature.

This in Caruntum.

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